

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CRIMINAL ACTION NUMBER: 1:17CR51

JAMES L. LAURITA, JR.

Defendant.

TRIAL - DAY 1

Proceedings had in the Trial of the above styled action
on January 29, 2018 before The Honorable Irene M. Keeley,
Senior Judge, at Clarksburg, West Virginia.

APPEARANCES:

FOR THE PLAINTIFF: JAROD J. DOUGLAS, ESQUIRE
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The defendant was present in person.

Proceedings recorded by stenomask, transcript produced by
official court reporter.

LINDA L. BACHMAN, CCR, CVR-M, OFFICIAL COURT REPORTER
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I N D E X**WITNESS****DIRECT****CROSS****REDIRECT****RECROSS**

(For the Government)

Karen Hughes

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1 P R O C E E D I N G S

2 (01-29-2018, 2:00 p.m., defendant present)

3 THE COURT: Thank you. Please be seated. Are
4 there any matters to bring up and decide before the jury
5 comes in?

6 MR. DOUGLAS: No, Your Honor.

7 MR. CARR: No, Your Honor.

8 THE COURT: All right. No motion was filed
9 regarding sequestering of witnesses. Is there anyone who
10 wishes to raise that before we begin?

11 MR. DOUGLAS: Not by the Government.

12 MR. CARR: Yes, Your Honor. We would make a motion
13 to sequester the witnesses.

14 THE COURT: All right. Excluding the case agent,
15 any witnesses who plan to testify in this case on behalf of
16 either the Government or the defendant are excluded, the
17 rule having been invoked. Is there anyone who needs to
18 leave? All right. Please look around, Counsel, to make
19 sure. No potential witnesses in the case?

20 MR. DOUGLAS: Correct.

21 MR. CARR: No, Your Honor.

22 THE COURT: Okay. Then we can bring the jury in.
23 Thank you.

24 (Jury in 2:05 p.m.)

25 THE COURT: All right. If the two--if Alternates

1 Three and Four will take the bench as they were before
2 lunch. Thank you. All right, Ladies and Gentlemen, look
3 around and make sure you're in your proper seat and I would
4 suggest that in the future when you come in it's best to do
5 what you do in grade school, get in line according to your
6 number and then come in that way and the back row first and
7 then the front row and then you won't any mix up. Please be
8 seated. Thank you.

9 All right, Ladies and Gentlemen, as I told you before
10 lunch, we will now do the preliminary instructions. What
11 I'm about to say is somewhat familiar to you but not all of
12 it.

13 Now you have in front of you notebooks and pencils.
14 I'll explain that further to you but those are your
15 notebooks to use during the trial.

16 What I am about to say is intended to serve as an
17 introduction to the trial of this criminal case. It is not
18 a substitute for the more detailed instructions on the law
19 that I will give to you at the close of the case before you
20 hear the closing arguments of the attorneys and then retire
21 to consider your verdict.

22 These preliminary instructions will help you, I hope,
23 better understand what will be presented to you during the
24 course of the trial and how you should conduct yourselves
25 during the trial.

1 Now we met this morning. I am Judge Keeley, but you're
2 probably wondering who some of the people in the courtroom
3 besides the attorneys and Mr. Laurita, to whom you were
4 introduced this morning are.

5 Seated below me with the mask and taking down absolutely
6 every word we say in the courtroom is Linda Bachman, the
7 Court Reporter. Okay.

8 And you have met Debbie next to her. Debbie is our
9 Courtroom Deputy and she's really the person in charge. She
10 keeps track of all the evidence. You'll see the lawyers
11 giving her the evidence after it's been admitted and they
12 have used it with the witness. She keeps track of all of
13 that and she is also here to assist you with any issues that
14 may arise during the trial.

15 And next to me on my left is Jim McDaniel, whom I always
16 introduce to juries as the brains of the operation. He is
17 my Law Clerk and he works with me when we're reviewing
18 particularly issues of law that arise in the case so he's
19 here in the courtroom taking notes and then of course we're
20 always conferring. In the law we have a nickname for the
21 kind of Law Clerk it is. It's called an Elbow Law Clerk and
22 all that means is he's at the Judge's elbow, okay, but he's
23 a recent graduate of West Virginia University College of
24 Law.

25 Also I have two externs from West Virginia University

1 College of Law sitting in the courtroom and they're over
2 there at the--at the far end. They're here for the semester
3 simply observing and learning, well we hope they're
4 learning, but they're--they're here for that purpose.

5 And from time to time, coming in and out of the
6 courtroom, as you know, will be Court Security Officers and
7 you've already met some of them as you've been escorted to
8 the jury room and into the courtroom. They move on a
9 schedule so when they enter or leave the courtroom you
10 should not be concerned or confused. It is simply their
11 regular schedule. Okay.

12 Now during the trial, and beginning with these
13 preliminary instructions, you are going to hear some terms
14 that you may not have heard used before, or if you've heard
15 them you may not have heard them in the same context so let
16 me explain briefly just a few of them.

17 Sometimes you will hear me refer to counsel, that's
18 spelled c-o-u=n-s-e-l and that means attorneys. Another way
19 is to say the lawyers in the case.

20 I will sometimes refer to myself as the Court.

21 The prosecution and the defendant are sometimes called
22 the parties to the case.

23 If you hear me sustain an objection to the admission of
24 evidence, what I am doing is excluding or keeping out that
25 evidence from the trial for a good reason.

1 When you hear that I have overruled an objection to some
2 evidence, I am permitting that evidence to be admitted.
3 I'll sometimes say it may come in.

4 When we say admitted to evidence or received into
5 evidence, we mean that this particular statement or a
6 particular exhibit will now become part of the trial and may
7 be considered by you when you deliberate to your decision in
8 the case.

9 The term burden of proof is one you heard me use this
10 morning and there's another term, sustaining its burden of
11 proof, means the obligation of a party of proving its case
12 in this trial. Here the Government is the one bearing the
13 burden of proof and that obligation is to produce proof
14 beyond a reasonable doubt.

15 This is a criminal case commenced by the United States.
16 During the course of the trial the United States may be, and
17 already has been, sometimes referred to as the Government,
18 sometimes as the prosecution.

19 The case is against the defendant James L. Laurita, Jr.
20 whom you met this morning. The case is based upon an
21 Indictment. Now from the jury selection process you are
22 acquainted with the general nature of the charges contained
23 in this Indictment. You must distinctly understand that an
24 Indictment is simply a charge or charges by the Government
25 to begin a case and it is not in any sense at all evidence

1 of the allegation it contains. An Indictment is merely a
2 formal method of accusing a person of the commission of an
3 offense or offenses.

4 Mr. Laurita has earlier entered a plea of not guilty to
5 each of the charges contained in the Indictment. The burden
6 therefore is on the United States to prove each of the
7 essential elements of the charges contained in the
8 Indictment beyond a reasonable doubt. The purpose of this
9 trial is to determine whether the United States can meet
10 this burden of proof as to Mr. Laurita. I instruct you that
11 you must presume that Mr. Laurita is innocent of all the
12 charges in the Indictment.

13 Now this trial will proceed through five basic stages.
14 Let me summarize. First, the parties, through their
15 attorneys, will make an opening statement. The United
16 States will make its opening statement at the beginning of
17 the case. That is usually followed by the defendant's
18 opening statement but the defendant may postpone the making
19 of an opening statement until after the Government finishes
20 its case in chief. Neither party is obligated to make an
21 opening statement but it is traditional to do so.

22 Now what is said in opening statement is not evidence.
23 This deviates from what you say on TV. Opening statements
24 serve the purpose of introducing you, the jurors, to the
25 evidence that the party making the statement intends to

1 produce during the course of the trial. That's phase one.

2 Second stage. After any opening statements the United
3 States will then proceed to introduce evidence that it feels
4 supports the charges contained in the Indictment.

5 In the third stage, after the United States has
6 presented its evidence, the defendant may then proceed to
7 present evidence but he is not obligated to do so. As I
8 have explained, in a criminal case the burden is always on
9 the Government to prove each and every essential element of
10 the offenses charged beyond a reasonable doubt. The law
11 never requires a defendant, such as Mr. Laurita, in a
12 criminal case to call any witnesses or to introduce any
13 evidence. The defendant is presumed to be innocent of all
14 the changes.

15 In the fourth stage after all the evidence has been
16 received, I will then give you orally and in a written copy
17 for each of you the final instructions on the law that you
18 must apply to the evidence received during the trial. Those
19 instructions will be much more detailed than these.

20 Finally, the fifth stage. After you have heard my
21 instructions the attorneys for each party will have the
22 opportunity to present oral argument to you in support of
23 their case. This is called closing argument. What is said
24 in closing arguments is not evidence, just as what is said
25 in the opening statements is not evidence. The arguments

1 are designed to present to you the contentions of the
2 parties as to what they believe the evidence has shown and
3 what inferences they believe may fairly be drawn from the
4 evidence. The Government has the right to open and close
5 the final arguments because it bears the burden in the case.

6 You will then retire to consider your verdict. That
7 means you go to the jury room. It doesn't mean you quit
8 your job and stay with the verdict. Your verdict must be
9 unanimous. Indeed all twelve of you must agree to it as to
10 each of the charges in the Indictment separately. You have
11 a separate vote on each charge.

12 Your purpose as jurors in this criminal case is to find
13 and determine the facts.

14 You must keep an open mind to both sides during this
15 trial.

16 Under our system of criminal procedure, you and you
17 alone are the sole judges of the facts. If at anytime
18 during the course of the trial I should make a comment
19 regarding the facts of the case you may disregard those
20 comments.

21 It is especially important that you perform your duties
22 of determining the facts in the case diligently and
23 conscientiously for ordinarily there is no means of
24 correcting an erroneous determination of the facts by the
25 jury.

1 On the other hand, and with equal emphasis, the law as I
2 will give it to you in my instructions constitutes the only
3 law for your guidance and it is your duty to accept and
4 follow the law given to you by me in my instructions, even
5 though you may disagree with it or believe that the law
6 should be otherwise.

7 You are to determine the facts in the case solely from
8 the evidence admitted and that will consist of the testimony
9 of the witnesses and the exhibits received. Questions, here
10 again we differ from TV, questions asked by the lawyers are
11 not evidence for the evidence consists of the witness'
12 answers to the questions, not the questions themselves.

13 As I said earlier, statements and arguments by the
14 attorneys are not evidence.

15 The attorneys, however, may enter into agreements or
16 what we call stipulations of facts which are not in dispute,
17 and when they do so, you may accept those facts as
18 stipulated by the attorneys.

19 I may also tell you that I am taking what's called
20 judicial notice of certain facts. If I do that you may
21 accept those facts as true as well. However, it is always
22 up to you to decide what facts are established by the
23 evidence and what inferences are to be drawn from those
24 facts.

25 There are two kinds of evidence, direct and

1 circumstantial.

2 Direct evidence is testimony by a witness about what
3 that witness personally saw or heard or did.

4 Circumstantial evidence is indirect evidence; that is,
5 proof of one or more facts from which another fact can be
6 found.

7 Now in this case you may consider both direct and
8 circumstantial evidence in deciding this case. The law
9 permits you to give equal weight to both but it is up to you
10 to decide how much weight to give any of the evidence.

11 Some evidence may be admitted for what we call a limited
12 purpose. When the Court instructs you that an item of
13 evidence has been admitted for a limited purpose, that is
14 the only purpose for which you may consider it.

15 During the course of the trial, the parties may
16 sometimes object to some of the testimony or other evidence.
17 It is the duty of an attorney to object to evidence that he
18 believes may not properly be offered. You should not be
19 prejudiced in any way against an attorney or that attorney's
20 client when an objection is made to evidence presented by
21 the other party. An objection is the only proper method of
22 requesting a ruling from the Court concerning evidence.

23 At times I may sustain the objections, directing that
24 you disregard certain testimony or keeping evidence out.
25 Should I do that, you must not consider any evidence to

1 which an objection is sustained or that I have instructed
2 you to disregard.

3 From time to time during the trial it may become
4 necessary for me to talk with the lawyers privately out of
5 your hearing about various evidentiary or procedural issues.
6 You saw how that works this morning, Ladies and Gentlemen.
7 You must understand that while you are waiting, we are
8 working. We are not trying to hide everything--or anything,
9 I should say, but the purpose of these conferences is not to
10 keep relevant evidence from you but to decide how certain
11 issues are to be treated under the rules of evidence so as
12 to avoid confusion and error. I will do what I can to keep
13 the number and length of these conferences to a minimum. I
14 may not always grant a lawyer's request for a conference.
15 Do not consider my decision whether to grant or deny a
16 request for a conference as any indication of my opinion of
17 the case or of what your verdict should be.

18 You are the sole judges of the facts, as I've said, so
19 as the sole judges of the facts, you must determine which of
20 the witnesses you believe, what portion of their testimony
21 that you will accept, and what weight, if any, you will
22 attach to it.

23 The law requires that your verdict be based solely upon
24 what we call competent evidence before you so if I exclude
25 items from your consideration, it will be because in my

1 opinion those--that evidence is not legally admissible.

2 The law does not, however, require you to accept all the
3 evidence that will be admitted, even though it will be
4 competent evidence.

5 In determining what evidence you will accept, you must
6 make your own evaluation of the testimony given by each of
7 the witnesses and determine the degree of weight,
8 credibility and value you choose to give the testimony of
9 each witness.

10 The testimony of a witness may fail to conform to the
11 facts as they occurred for a variety of reasons. The
12 witness may be intentionally telling a falsehood. The
13 witness may not adequately have heard or seen the fact about
14 which the witness has testified or it may be that the
15 witness' recollection of the event is faulty or because he
16 or she has not expressed himself clearly in giving
17 testimony.

18 I cannot give you a magic formula by which to evaluate
19 witness testimony, but you bring with you to the courtroom
20 all of the experience and background of your lives. In your
21 everyday affairs you determine for yourselves the
22 reliability or unreliability of statements made to you by
23 others. Those same tests that you use in your everyday
24 dealings are the tests to apply here in your deliberations.

25 Let me give you some examples. The interest of a

1 witness in the outcome of the case, if any; the bias or
2 prejudice of a witness, if any; a witness' age, appearance;
3 the manner in which each witness presents testimony from the
4 witness stand; the opportunity that each witness had to
5 observe the facts about which the witness testifies.

6 The probability or improbability of each witness'
7 testimony, when viewed in light of all the other evidence in
8 the case, are all items to be taken into consideration by
9 you in determining the weight and value, if any, that you
10 will assign a particular witness' testimony.

11 If the kinds of considerations that I've suggested make
12 it appear that there is a discrepancy in the evidence, then
13 you will have to consider whether the apparent discrepancy
14 or differences may be reconciled or resolved by fitting the
15 stories together. If that is not possible however, you will
16 then have to determine which of the conflicting versions you
17 accept. Thus, you give the testimony of each witness such
18 weight and value as you believe it deserves.

19 Do not read or review any news accounts about this case
20 in any newspaper or watch such accounts on TV. Do not
21 listen to any such news accounts on the radio. In other
22 words, do not consider anything that you have read or heard
23 about the case outside of the courtroom, whether before,
24 during or after the trial--or after your deliberations,
25 excuse me.

1 Do not attempt any independent research or investigation
2 about this matter. As I suggested earlier, you cannot go on
3 your phone or your tablet or to a computer and look the case
4 up on Google or see what's trending on some account. It's
5 not allowed. No independent research or investigation.

6 Until the case is submitted to you, do not discuss it
7 with anyone, not even with your fellow jurors. Why?
8 Because it's important that you keep an open mind throughout
9 the trial and not decide any issue in the case until all the
10 evidence is in and only after you've heard my instructions
11 and the closing arguments of the attorneys and then only
12 after you've had an opportunity to exchange views among
13 yourselves about the evidence in the case.

14 During the course of the trial, as I said to you before
15 lunch, don't permit any third person to discuss the case
16 with you or in your presence. Should anyone, and that
17 includes your family, persist in attempting to discuss the
18 case with you in spite of your telling them not to do so,
19 you need to report this fact to me, either directly or
20 through Court Security or Debbie, as soon as possible.

21 I know it's a normal human tendency to converse with
22 people with whom one is thrown in contact but I instruct you
23 not, during the time you serve on this jury, to have any
24 conversation whatsoever either in or outside the courtroom
25 with the parties or their attorneys or any witness in the

1 case. By this I mean you should have no conversation at
2 all, even to passing the time of day. The attorneys and the
3 parties will not speak with you because I have already
4 instructed them that they must not. It simply does not look
5 appropriate for one side or the other in this case to be
6 speaking with any one of you, no matter how innocent or
7 trivial the conversation might in fact be. So when you come
8 in with WVU regalia on, you can't discuss the Kentucky game.
9 Who wants to talk about that game anyway?

10 The reason for this, Ladies and Gentlemen, it's not a
11 light matter, is that there's no other way that all the
12 parties can be assured of your absolute impartiality.

13 The defendant, the attorneys in the case and the public
14 generally are entitled to expect absolute impartiality from
15 you as jurors.

16 To the notebooks. If you wish, you may take notes to
17 help you remember what the witnesses said. That's
18 particularly helpful for those of you who are inclined to do
19 so when the case may involve a number of witnesses.

20 If you do take notes, please keep them to yourself until
21 you and your fellow jurors go to the jury room to decide the
22 case and we'll be picking them up from you during our
23 recesses and when we adjourn at the end of a day. They'll
24 be kept in our safe. No one here looks at them. They're
25 returned to you with your juror number. You're going to

1 write your number, if you haven't already, on the back of
2 the notebooks.

3 Do not let note taking distract you so that you do not
4 hear other answers by witnesses. You know how that can be.
5 You start writing and then the case moves on and suddenly
6 you didn't hear the next question.

7 So when you leave the courtroom, I'll be instructing you
8 to leave your notebooks face down on your chairs.

9 Notes, while helpful, are not entitled to any greater
10 weight than the memory or impression of each juror as to
11 what the testimony may have been so whether you take notes
12 or not, each of you must form and express your own opinion
13 as to the facts of the case.

14 If you do not take notes, then you should rely on your
15 own memory of what was said and not be overly influenced by
16 the notes of other jurors.

17 In conclusion, let me remind you of a few key principles
18 that we will adhere to as we begin this trial.

19 Your job is to decide all the factual issues in the
20 case, like who should be believed and who should not be
21 believed.

22 I will decide all the legal questions, like what
23 testimony and exhibits are received into evidence and which
24 ones are not. Please do not concern yourselves with the
25 legal questions.

1 The defendant, Mr. Laurita, has pled not guilty and he
2 is presumed to be innocent of the crimes charged. As such,
3 he is not required to produce any evidence whatsoever.

4 By bringing the Indictment, moreover, the Government has
5 accepted the responsibility of proving his guilt to the
6 charges, each one individually, unanimously beyond a
7 reasonable doubt.

8 Please don't discuss this case with anyone and keep an
9 open mind until all the evidence has been received.

10 At the close of the evidence in the case I will be able
11 to give you complete and final instructions on what the law
12 is in the case, much more detailed than what you're
13 presently hearing.

14 Then, and only then, will you be fully prepared to begin
15 your deliberations and reach your verdict.

16 Ladies and Gentlemen, that concludes the preliminary
17 instructions.

18 We'll now hear from the parties in what, as I told you
19 earlier, are called opening statements. The Government may
20 begin. Mr. Douglas.

21 MR. DOUGLAS: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 GOVERNMENT OPENING STATEMENT

24 MR. DOUGLAS: This case is about abuse of trust and
25 abuse of authority. The evidence will show that the

1 defendant abused the public trust when he attempted to
2 influence federal candidates through unlawful campaign
3 contributions. The evidence will also show that he abused
4 his authority as president and CEO of a company by directing
5 his employees and their spouses to make these contributions
6 on his behalf and by causing his company to fund these
7 contributions without any approval.

8 So what happened? The evidence will show that between
9 2010 and 2013 the defendant directed his eight executives
10 and their spouses to make contributions to candidates of his
11 choosing and he did so with company money, entirely
12 undetectable to the Federal Government, in this case the
13 Federal Election Commission.

14 You'll hear from all eight of the executives and they
15 will tell you that the defendant controlled every aspect of
16 these contributions. He told them the candidates, how much,
17 when and sometimes where as well as whether the spouse would
18 be required to contribute.

19 You'll hear that the defendant would bundle the checks
20 together and sometimes personally deliver the checks to the
21 campaigns as if he had lawfully raised the money.

22 But most importantly you will hear again that he caused
23 the company, through what they called bonuses, to fund these
24 contributions. They were not bonuses and you'll hear that
25 from all eight of the executives.

1 You'll hear that this program only ended in 2013 because
2 the company filed bankruptcy and the bankruptcy attorney
3 started asking questions about these extra bonuses.

4 So, what's the problem? Well, first, federal law places
5 limits on how much an individual can contribute to a
6 candidate. For example, it may be twenty-four hundred
7 dollars for this election; twenty-four hundred dollars for
8 this election.

9 Then you might expect as well that federal law prohibits
10 going around this individual limit. For example, prohibits
11 an individual from using other individuals as puppets to
12 make contributions with money they're giving them to make
13 them when they're really controlling every aspect. Those
14 are referred to as conduit contributions. Those individuals
15 are mere conduits of the individual behind them and their
16 money.

17 Another problem with conduit contributions is that
18 campaigns are required by law to report where they're
19 getting their money that is supporting their campaign; the
20 name, the employer of the individual that is contributing.

21 In these cases of conduit contributions, they're getting
22 false information and they're reporting the false
23 information, the campaigns are, to the Federal Election
24 Commission, which is then publishing false information to
25 you and us, the public, and it's going to be very important

1 in this case to prove what the defendant knew about that law
2 in a general sense that I just explained to you.

3 So first of all, what will be the evidence of what the
4 defendant knew on limitations on individuals and how much
5 they can contribute?

6 First, you will see e-mail correspondence which will
7 prove that he was aware of the individual limitation. You
8 will see e-mails where people are telling him what the
9 specific individual limitation is. You will see an
10 e-mail--at least one e-mail from him telling someone else
11 what the individual limitation is. You will see that he
12 received, over this three year time period, numerous
13 fundraiser invitations which specified what the limit was.
14 You will see and hear from his secretary, who drafted
15 invitations for fundraisers he was hosting that has in the
16 language of the invitation what the limitations are. You
17 will see that he, himself, the defendant, made personal
18 contributions where he was required to fill out contribution
19 forms which told him what the individual limits were. You
20 will see that he was asking the executives to make
21 contributions at the maximum--at the maximum individual
22 limitation so he could max out all the money he wanted to
23 give to candidates and then just the general sense of him
24 jumping through these hoops and using these people to make
25 contributions shows that he knew an individual like himself

1 was limited to only a certain amount.

2 Next, with regard to the law and how it prohibits what
3 we call the conduit contributions, using other people to
4 make contributions with your money, here's what we'll see.

5 First. You'll see that some candidates require the
6 contributor to fill out a contribution form and you'll see
7 one particular one that he himself filled out and signed and
8 he signed to confirm that quote: "No one has advanced you
9 funds for the purpose of making this contribution and that
10 no one will reimburse you for it". The very thing that he
11 was doing, he signed confirming to that candidate he was not
12 doing in that instance.

13 You will also see through his e-mail--through the
14 e-mails that went through his account, both to and from,
15 other fundraiser invitations and not just--this isn't junk
16 mail. This isn't it comes through, it's deleted. He is
17 hosting the fundraiser and those fundraiser invitations will
18 include language such as, contributions must be made from
19 your own funds and funds cannot be provided to you by
20 another person or entity for the purpose of making this
21 contribution. That is in the--in the invitation for Mark
22 Critz, a Pennsylvania Congressional candidate. You'll see
23 that at least five times over a three year period and again
24 invitations for his own fundraisers. He's approving these
25 invitations that his secretary is writing and he is

1 approving them to be sent out to those that are being
2 invited to his fundraiser.

3 But, this isn't a--just a document case. This is a
4 common sense case as well and you will hear evidence that
5 the defendant purposely sought to contain information about
6 this program to the group. You will see--you will hear that
7 he did not seek approval from their parent company. You
8 will also see that he did not inform the capital firm that
9 was providing funds for a two billion dollar project and was
10 requesting financials on a weekly basis, did not inform them
11 what these other bonuses were being used for.

12 He also did not inform an auditor who conducted an audit
13 on an annual basis, including at least two times during this
14 program of what these other bonuses were and they just
15 weren't bonuses.

16 But you're also going to hear first from Karen Hughes.
17 She was the defendant's secretary and treasurer. She had
18 worked for the defendant for--or with him and known him for
19 forty years. She played certain roles for him, had certain
20 tasks in this program.

21 Number one, she would communicate to the group what
22 instructions he was giving her; candidate, amount, spouse,
23 when it's needed by and in this regard you will hear from
24 her that he restricted her in two ways. He gave her two
25 rules. The first one was to not communicate about this

1 program outside of the group of people that were being asked
2 to make the contributions. You will hear from her that this
3 caused her to ask the group to delete certain e-mails about
4 the program and the second rule was, when you're
5 communicating these instructions, always ask, don't tell and
6 you'll hear from her that this caused her to use certain
7 soft language like suggested. It's suggested that you make
8 this contribution to Senator Manchin. It's requested that
9 it be in this amount. This was false. Just by the
10 mechanism of how this program worked, it's false.

11 The bonuses were advancements, a large pool of money, at
12 times almost up to fifteen thousand dollars per individual.
13 Here's fifteen thousand dollars. I'm going to come around
14 and ask you to make it to McKinley. You're not going to
15 tell me no. So the mere fact of asking her to say ask,
16 don't tell, is false and goes towards his intent.

17 And then finally with regard to the false reporting to
18 the Government, to the Federal Election Commission with
19 regard to what his state of mind was. You will also see
20 e-mail correspondence showing that he was aware that the
21 campaign committees were required to regularly report the
22 contribution. In fact, there's at least one example where
23 he's providing a name to the campaign directly of what to
24 report.

25 The evidence will also show that he knew that the

1 campaigns were not aware that he was causing his company to
2 fund these contributions that the executives were given. In
3 fact, you'll see at least one e-mail where they're talking
4 with him about raising the money, as if he's raising it.
5 This is not raising money. This is funneling money.

6 And then you'll see evidence from some of the FEC
7 reports themselves and of course the campaign committees
8 reported only the information they had, which was that these
9 executives and these spouses of executives were the true
10 sources of these contributions, which is false.

11 Because of this the defendant has been charged with
12 making conduit contributions, with making excessive
13 contributions and with causing false reporting to the FEC.

14 Based upon the evidence we'll return and ask you to find
15 him guilty as charged. Thank you.

16 END OF GOVERNMENT OPENING STATEMENT

17 THE COURT: All right. Mr. Parr (sic).

18 MR. CARR: Thank you, Your Honor.

19 THE COURT: You're welcome. I said Mr. Parr, Mr.
20 Carr. Excuse me.

21 DEFENDANT OPENING STATEMENT

22 MR. CARR: Members of the jury, first I want to
23 thank each of you for being here. I know each of you may
24 have something better to do this week. I know many of you
25 are traveling a long way and we're supposed to get some

1 weather this week as well, but the duty that--the function
2 that you have this week is critical, is absolutely critical
3 to the foundation of not only our country but certainly our
4 criminal justice system and on behalf of the defense team
5 and I'm sure everybody in the courtroom we very much
6 appreciate your time and attention this week.

7 How much money can an individual give to a campaign?
8 Can a corporation give to a campaign? What is a PAC? How
9 much money can you give to a PAC? Can a corporation give to
10 a PAC? Can a PAC give to campaigns? How does that vary if
11 we're talking about the Democratic or Republican National
12 Committees or the Republican or Democratic Governor's
13 Association? Campaign finance law is complex. It's
14 difficult and it's not intuitive.

15 We are not talking about a charge--and that's all it is
16 right now. As the Judge has instructed you, the Indictment
17 is merely an allegation. As Mr. Laurita sits here today he
18 is presumed innocent and I would suggest that if you were to
19 return to your deliberation room right now, having heard no
20 evidence or testimony, you would have to find him not
21 guilty. We are not referring to--you're not dealing with an
22 allegation of something that we expect to be intuitive, a
23 crime like you've heard a couple of those answers this
24 morning during voir dire, murder, sexual assault, malicious
25 wounding, the things that we expect people to know exactly

1 what the rules are. This is not that kind of case.

2 The Judge has given you preliminary instructions. I
3 want to mention this now because I believe it is critical in
4 every case and especially this case, at the end of all of
5 the evidence, the Judge, the Court is going to provide to
6 you instructions, instructions on the law and instructions
7 to guide you during your deliberations. It's interesting.
8 It's expected in this case that may be lengthy and we ask
9 you to pay very close attention to those instructions,
10 especially in this case and as close of attention as you do
11 to the witnesses on the stand and the actual physical
12 evidence that may be introduced.

13 The Court has asked you to keep an open mind until all
14 of the evidence comes in and has also told you that the
15 defense has no burden of presenting any evidence whatsoever
16 and would instruct you that if the defendant, James L.
17 Laurita, Jr., he goes by Jim, that's how I'll refer to him,
18 did not take the stand you could not hold that against him.
19 He has an absolute constitutional right not to do that.

20 Oftentimes young lawyers are told you never broadcast.
21 You never tell the jury until the end of the Government's
22 case as to whether the defendant is going to testify. I
23 will tell you right now you will hear, when the defense gets
24 the chance to present evidence and testimony, you will hear
25 from Jim Laurita. He will take the witness stand. He will

1 be placed under oath and he will tell you what happened.

2 Two very important things that I would like to mention
3 right now. He will tell you that to his knowledge nearly
4 all, if not all, of the money, the compensation that the
5 executives of his company had, came from the company Mepco
6 and consequently he did not, and does not consider that when
7 an executive made a contribution, went to the grocery store,
8 paid their electric bill, paid for their student's college,
9 that Mepco was paying for it. That was not Mepco's money.

10 And he will also tell you, and it is not expected that
11 there will be any contrary testimony, that he did not and
12 does not believe that what he did was unlawful, that there
13 was anything wrong with what happened.

14 Mr. Laurita will give you a little bit of background as
15 to some of the entities the Government has mentioned in
16 opening statement. They didn't mention all the names; they
17 don't have to.

18 Mr. Laurita is involved in the coal business. He has
19 been ever since he was a little kid. He worked at his
20 father's mine until he grew up. He worked there in high
21 school, picked shale out of the coal pile back before they
22 had Prep Plants. He went to WVU. He got an Engineering
23 Degree and when he was done he went back to the family
24 business. He rose through the ranks, got more
25 responsibility and at some point he formed, with his brother

1 and sister, a company called Mepco and he, as president,
2 along with his brother and sister, started to run a coal
3 mine and they grew that coal mine. The coal mine actually
4 is located north of Morgantown.

5 They grew that company and at some point a group of
6 investors approached him because they wanted to build a
7 power plant and the name of that power plant was going to be
8 Longview and the power plant was going to be located, in
9 effect, right next door to the coal mine. That power plant
10 was going to use the same coal that came out of Jim's mine
11 but the investors, in order to put the expected two billion
12 dollars into that power plant, needed a guarantee that they
13 would get the coal coming out of that coal mine and so Jim
14 made the decision to sell that family business but he was to
15 remain as President of Mepco.

16 That began. He put his executive team together. It is
17 expected that you will hear from the entire executive team,
18 how close they were, how often they met, how much concern
19 they had with the company and with the miners that they
20 employed.

21 Jim will also tell you that before 2008--before the
22 Presidential Election in 2008, he really wasn't involved in
23 politics. He never had been. He didn't contribute money.
24 He didn't go to fundraisers. It wasn't something he
25 concerned himself with. He was running a coal mine.

1 In fact in 2008, as perhaps all of you remember, Barack
2 Obama ran against John McCain. He contributed to neither
3 candidate.

4 He will tell you that he was a member of the West
5 Virginia Coal Association, as all producers were at the
6 time. Producers meaning people who mine coal, the company
7 presidents and there was some concern with statements that
8 one of the candidates had made beforehand about bankrupting
9 the coal industry but Jim will tell you that he understood
10 generally within the industry and within the coal
11 association and even within the company, it wasn't believed
12 that that could actually happen, that there would be a
13 significant impact on the coal industry, but after the
14 election something changed. Permits were yanked.
15 Regulation legislation was introduced, which in effect would
16 mean that as soon as that power plant, Longview, came on
17 line, it would be shut down.

18 Jim will tell you that both within the coal association,
19 as well as the investors in parent companies, it was an
20 effort amongst the leaders in the industry to become more
21 politically active and to fight this war on coal, as many
22 were calling it.

23 Unfortunately at this time, Longview, the power plant,
24 as you might imagine, two billion dollars, a number of
25 permits, a lot of government regulations, a lot of

1 construction, was behind schedule.

2 Mepco was not in terrific financial shape. Across the
3 company wages and salaries were not commiserate with the
4 industry. Mepco was actually up for sale.

5 Jim went back, he will tell you, in March of 2010 and
6 met with the executives and asked them--told them what he
7 had been told about the industry becoming more politically
8 active and asked them if they wanted to participate and Jim
9 will tell you and it's not been disputed, they all agreed.
10 They agreed with the need to protect the miners, the company
11 and the industry.

12 Jim knew that their compensation was low. Jim had two
13 ways of increasing compensation, neither one of which
14 required Board approval at all. He had the authority to do
15 it himself. One, he could increase base salaries or, two,
16 he could give them an additional discretionary bonus.

17 Jim will explain to you from the stand that he
18 considered raising salaries but the problem is with the
19 company for sale, with expecting it to be sold within the
20 year, he did not want to permanently increase base salaries
21 for a potential buyer and with respect to once the company
22 was sold, there was going to be a compensation package for
23 the executives negotiated into it and so instead this was
24 supposed to be short-lived, he'll tell you he chose to
25 increase their compensation, the money that went into their

1 accounts, just like every other dollar they got from Mepco,
2 increased through the discretionary bonus.

3 There was no effort to hide anything. The money was put
4 into--the payments were put into the payroll system like
5 anything else. It was direct deposited into their normal
6 accounts. There was no effort to hide anything. It was
7 never, ever denied we will tell you and it's not expected
8 there will be anything to say it was.

9 Once there was an agreement to do this, Jim in effect
10 did handle--hand off to Karen Hughes, just monitor and take
11 care of this. You can imagine running a coal company takes
12 a lot of time. He'll tell you he didn't pay much attention
13 to it.

14 It is the case that at times the execs would ask or
15 suggestions would be made to them about which candidates to
16 support and in what amounts. In fact you will hear that
17 there was disagreement at times amongst the executives as to
18 which candidate to support. The program was not mandatory.

19 The Government, in opening statement, characterized it
20 as restraints that were put on--that were put on Karen
21 Hughes. Jim will tell you he was extremely sincere. There
22 was to be nothing mandatory about it. The contributions
23 were completely voluntary and Jim did not track them as to
24 who did and did not give.

25 What you will hear though is that someone was tracking

1 and who was that? The campaigns. Jim came to learn that
2 the campaigns knew how much money he had given, whether he
3 had quote "maxed out". The campaigns knew whether the execs
4 had given and would actually send e-mails to him saying
5 three of your execs can still give us money. Would it help
6 if we called them? The fact that it was voluntary doesn't
7 mean that it is expected that you will hear everyone
8 thoroughly enjoyed this. Jim will tell you that he himself,
9 it wasn't something he necessarily enjoyed. He didn't like
10 to go to the fundraisers but he understood and understood
11 that all the execs agreed that it was important to the
12 miners, to the company, and to the industry for those
13 elected officials and those running for office to understand
14 the importance of what was going on in government, to not
15 only the industry but to their companies.

16 Jim will explain to you there was not any quid pro quo
17 with the executives. It was not here's a thousand dollars,
18 give me a thousand dollar check. That's not what happened.
19 He increased their overall compensation. Did they get more
20 money than they gave? Did they spend the money on other
21 things? Jim doesn't know. There was never any money passed
22 back and again, there was never an effort to hide it. No
23 one ever said everything about any concern with anything
24 being unlawful, that there could possibly be anything wrong
25 with Mepco increasing their compensation and that the

1 executives being active politically.

2 Unfortunately the sale of Mepco was delayed. It went
3 through one potential buyer, then another potential buyer,
4 which lasted much longer than anyone thought it was going
5 to. The 2010 congressional elections, the state elections
6 were a big deal and it continued but unlike what you heard
7 in the Government's opening statement, and again the Court
8 has instructed you that opening statements are not evidence,
9 this did not end because bankruptcy lawyers discovered
10 something. It ended because it was clear Mepco was going to
11 go into bankruptcy, it appeared that way, and Jim said we
12 have to stop all discretionary bonuses. We can not be
13 paying extra money to anyone. Cuts were actually made
14 across the company because the company is going into
15 bankruptcy receivership.

16 At the end of this case when you have heard all the
17 evidence and all the testimony and you go back to your
18 deliberation, after you have heard all the Government's
19 witnesses and testimony, all the defense presentation, as I
20 mentioned the sworn testimony of Jim Laurita, the Government
21 will have been unable to prove beyond a reasonable doubt
22 that the money given by the executives to the campaigns was
23 Mepco money or that Jim Laurita knew that there was anything
24 unlawful about what they had done.

25 Consequently, at the end of the presentation of the

1 evidence, we will ask you to return a not guilty verdict on
2 all counts. Thank you.

3 END OF DEFENSE OPENING STATEMENT

4 THE COURT: Ladies and Gentlemen, that concludes
5 the opening statements. The Government may now begin its
6 case in chief. Mr. Douglas.

7 MR. DOUGLAS: Yes, Your Honor. United States calls
8 Karen Hughes.

9 THE COURT: Karen Hughes. Is someone going to get
10 her? Have you made those arrangements for someone to do
11 that?

12 MR. DOUGLAS: Yes, Your Honor.

13 THE COURT: Thank you. Ladies and Gentlemen,
14 anyone who's testifying in the case has not been in the
15 courtroom so somebody has to go over to the conference rooms
16 to let the witness know.

17 All right. Ms. Hughes--good afternoon, Ms. Hughes. If
18 you would please approach to the front of the
19 courtroom--it's rather a tight squeeze in here, but if you
20 could come before the lady in the green suit, she'll
21 administer the oath to you before you take the witness
22 stand.

23 KAREN HUGHES, GOVERNMENT'S WITNESS, SWORN

24 THE CLERK: Thank you. You may have a seat in the
25 witness stand. The witness is Karen Hughes, H-u-g-h-e-s.

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1 THE COURT: All right. Ms. Hughes, the gentleman
2 in the blue blazer will assist you to your chair. Thank
3 you. Now that is a movable microphone. As you can see, it's
4 the same as mine and you can make it as comfortable for you
5 to speak into as possible without leaning or doing something
6 awkward.

7 THE WITNESS: Okay. Thank you.

8 THE COURT: Please speak in a loud, clear voice.

9 THE WITNESS: Okay.

10 THE COURT: Thank you

11 DIRECT EXAMINATION

12 BY MR. DOUGLAS:

13 Q. Ms. Hughes, could you please introduce yourself to the
14 jury?

15 A. Hello. My name is Karen Hughes.

16 Q. And where do you reside?

17 A. I reside in Masontown, Pennsylvania.

18 Q. Are you currently employed?

19 A. I am not. I'm retired.

20 Q. What did you retire from?

21 A. I retired from Mepco as Mepco's secretary-treasurer.

22 Q. And how long did you work at Mepco?

23 A. For the company Mepco itself from about the year 2000
24 until 2015.

25 Q. Could you explain to the jury what Mepco was at that

Hughes - Direct

1 time?

2 A. During that period of time Mepco had related companies
3 and they mined coal in West Virginia and Pennsylvania and
4 they sold that coal to neighboring power plants.

5 Q. And when you were the secretary and treasurer, who was
6 your boss?

7 A. James Laurita, Jr.

8 Q. Is he the defendant in the courtroom?

9 A. Yes he is.

10 Q. How long have you known the defendant?

11 A. Since about 1974.

12 Q. Did he hire you on at Mepco?

13 A. Not--not directly, no. When his father retired I
14 became--my employment just transferred from his father's
15 company over to his company.

16 Q. Prior to being secretary-treasurer, what was your
17 position with Mepco?

18 A. I guess I would classify my position as office manager.
19 I did various duties.

20 Q. So was your movement to being the secretary and
21 treasurer a promotion?

22 A. It was.

23 Q. And who was in charge of promoting you?

24 A. Mr. Laurita.

25 Q. Who was the secretary and treasurer before you?

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1 A. Jeanie Dehring, who is Mr. Laurita's sister, was the
2 secretary-treasurer prior to mine.

3 Q. And what happened with her? Did she leave the company?

4 A. She did. She left the company in 2007.

5 Q. Did your promotion to secretary-treasurer coincide with
6 some type of organizational structural change at Mepco?

7 A. Yes it did. In 2007 there was n ownership and a
8 structural change within the company.

9 Q. And first of all was Mepco previously a corporation and
10 then became LLC's or how did that work?

11 A. They were--the entities were all incorporated and with
12 the structural change they became LLC's.

13 Q. Now what about Laurita family ownership, was there a
14 change at that time as well in that regard?

15 A. Mr. Laurita, James Junior and his two siblings were
16 owners of the incorporated companies and when the ownership
17 changed and the brother and sister left, Mr. Laurita
18 remained with the company.

19 Q. And were these changes related in any way to the
20 Longview power plant project?

21 A. Yes they were.

22 Q. Do you know what the purpose was for making these
23 changes in coinciding with that project?

24 A. There was an agreement made with an investment firm
25 where the investment firm would contribute capital, both in

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1 cash and through loans, to construct the Longview power
2 plant. When the power plant would be completed Mepco was
3 good to provide a hundred percent of the coal to operate
4 that plant so in order to affect that the two Laurita
5 siblings who left the company decided that it was best for
6 them to leave.

7 Q. Did the defendant ever share with you how important he
8 believed it was that Mepco had a hundred percent coal supply
9 agreement with Longview?

10 A. Yes he did.

11 Q. What did he tell you?

12 A. That it was very important for Mepco to supply the coal.
13 It provided longevity for the company's success and you know
14 the employees would have long--long standing, good paying
15 jobs.

16 Q. Okay. Was there a time when you worked at Mepco when
17 you began to make political campaign contributions?

18 A. Yes.

19 Q. Could you describe for the jury how that started?

20 A. In 2010 Mr. Laurita called a meeting with all the
21 officers where he proposed a plan whereby we would support
22 candidates that were favorable to the coal industry.

23 Q. Was there any discussion at that initial meeting about
24 whether spouses would also participate?

25 A. Yes.

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1 Q. What was that discussion?

2 A. I don't remember the exact words but Mr. Laurita's
3 presentation was that in some cases if the spouses would
4 contribute as well as the officers.

5 Q. Was there discussion in that initial meeting about how
6 these contributions would be funded?

7 A. The--each individual--yes there was a discussion.

8 Q. And what was that discussion?

9 A. The individual officers would make the contributions and
10 then would receive reimbursement from the company to cover
11 the cost.

12 Q. And who was explaining that during the meeting?

13 A. Mr. Laurita.

14 Q. Was it explained that this is really compensation, you
15 can use it however you want to?

16 A. No.

17 Q. What was your understanding for what this money would be
18 used for based on you being at that meeting?

19 A. The money was to be used for the political
20 contributions.

21 Q. At that time in 2010 had you ever made a campaign
22 contribution before?

23 A. Not that I could ever remember.

24 Q. At that time had your husband ever made a contribution
25 before?

Hughes - Direct

1 A. I don't believe he did either.

2 MR. DOUGLAS: Your Honor, may I approach the
3 witness?

4 THE COURT: You may.

5 BY MR. DOUGLAS:

6 Q. Ms. Hughes, I've handed you a number of exhibits. Right
7 now I just want you to look at the first exhibit which is
8 marked as Exhibit 1-3.

9 A. Okay.

10 Q. Do you recognize Exhibit 1-3?

11 A. I do.

12 Q. What do you recognize it to be?

13 A. It's e-mail correspondence between Mr. Laurita and the
14 officers of Mepco.

15 Q. Is it comprised of an e-mail sent from the defendants to
16 the executives?

17 A. Yes it is.

18 Q. So it's the defendant's statements that are in the
19 e-mail?

20 A. Yes.

21 MR. DOUGLAS: We would move to admit Exhibit 1-3.

22 THE COURT: Is there any objection?

23 MR. CARR: No, Your Honor.

24 THE COURT: All right. Exhibit 1-3 is admitted.

25 (Government Exhibit Number 1-3 admitted)

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1 MR. DOUGLAS: Permission to publish.

2 THE COURT: You may. All right. Ladies and
3 Gentlemen, I think you're going to see these exhibits coming
4 up on the screen. As you know there are three or four--four
5 I think screens in your jury box and there's the large
6 screen here in the courtroom.

7 BY MR. DOUGLAS:

8 Q. And if we could blow up the e-mail please. Could you
9 read the date of this e-mail?

10 A. I'd like to have a meeting tomorrow at eleven-thirty
11 in--

12 Q. Sorry. Wait. I asked you for the date.

13 A. Oh, I'm sorry. Thursday, March 4, 2010.

14 Q. And could you read the e-mail for us?

15 A. I'd like to have a meeting tomorrow at 11:30 AM in the
16 conference room. It is in regard to the election--

17 THE COURT: I'd ask you to slow down a bit because
18 the Court Reporter is taking down everything you say.

19 THE WITNESS: Oh, I'm sorry.

20 THE COURT: People who read--when they read
21 something have a tendency to move it fast.

22 THE WITNESS: I'm sorry.

23 THE COURT: No, that's all right. Fine.

24 BY MR. DOUGLAS:

25 A. It is in regard to the elections and our support for

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1 particular candidates. Rick is on vacation so I'll meet up
2 with him when I return, but if you can make it I would
3 appreciate doing so before I leave town. I only expect the
4 meeting to be approximately one half hour. If several can't
5 make it, we'll try again late next week or the following
6 week when I return. Let me know if you can't make it.
7 Lunch will be provided and we will discuss while we're
8 eating. Jim.

9 Q. Does this e-mail relate to that initial meeting that
10 was--that the defendant led?

11 A. Yes.

12 Q. If you'll take a look at the next exhibit in that stack
13 which should be marked as Exhibit 1-4. Do you recognize
14 Exhibit 1-4?

15 A. I do.

16 Q. And what is it?

17 A. It's an e-mail exchange from Mr. Laurita to the Mepco
18 officers.

19 Q. So does it include statements from the defendant?

20 A. Yes it does.

21 MR. DOUGLAS: We would move to admit Government
22 Exhibit 1-4.

23 THE COURT: Any objection?

24 MR. CARR: No, Your Honor.

25 THE COURT: Government Exhibit 1-4 is admitted.

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1 (Government Exhibit 1-4 admitted.)

2 MR. DOUGLAS: Permission to publish.

3 THE COURT: You may. Once it's admitted, you may
4 publish.

5 MR. DOUGLAS: Yes, Your Honor. Thank you.

6 BY MR. DOUGLAS:

7 Q. If we could zoom in on the top part of this e-mail
8 please. So what is happening here in this e-mail?

9 A. Mr. Laurita is sending Kevin and Rick--or notifying
10 Kevin and Rick that he will try to call and discuss the
11 meeting but that they should contact me when they return for
12 preview and he goes on to tell everyone that he wants
13 contributions to be made to the listed candidates.

14 Q. And if you could read the last sentence right before his
15 name Jim.

16 A. Please direct all contributions to Karen.

17 Q. So did you have certain roles within this program of
18 contributions?

19 A. For the most part I would forward to the officers his
20 requests for contributions and then I would collect those
21 contributions and distribute them however he told me to.

22 Q. And how did you know that you had that role of
23 communicating to the group?

24 A. He called me into his office shortly after this initial
25 March 4th meeting, I think, and discussed that with me.

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1 Q. And was that a meeting between just the two of you?

2 A. Yes.

3 Q. During that meeting did the defendant tell you how to
4 cause the payments to the group to make the contributions?

5 A. I don't understand what you mean, to cause them to be
6 made--to communicate them?

7 Q. No, first of all with regard to the payments, how did
8 the company funds get into the accounts of the participants
9 in the group?

10 A. I was to direct Rodney Bolyard, who was the person that
11 actually did the Mepco payroll, to direct him to give
12 bonuses to the officers which would cover the cost of the
13 contributions.

14 Q. And during that separate meeting you had with the
15 defendant, did he talk about how those payments would be
16 made, including the term bonus?

17 A. We discussed what the options were for the payroll
18 system to accommodate these payments and the bonus category
19 was the only thing that was available in the system that we
20 could use.

21 Q. Okay. Now did the defendant at that separate meeting
22 with you give you any further constructions about how to
23 communicate with the group?

24 A. No. No he didn't.

25 Q. Did he discuss with you whether you should just talk to

Hughes - Direct

1 the group and not to others about the program?

2 A. Mr. Laurita told me two things. One was that I should
3 ask the officers for their contributions, don't tell them
4 that they had to make them and second, I was not to discuss
5 this program with anybody outside of the group of officers
6 who were actually making the contributions.

7 Q. Did he explain during that initial meeting with you what
8 the purpose for these two rules were?

9 A. No.

10 Q. I would like you to now take a look at Government
11 Exhibit 1-23. Do you recognize Exhibit 1-23?

12 A. Yes I do.

13 Q. What do you recognize it as?

14 A. It's an e-mail from me to the officers of Mepco.

15 Q. And is this included as a communication that you're
16 making to the group at the direction of the defendant?

17 A. Yes.

18 MR. DOUGLAS: We would move to admit 1-23.

19 THE COURT: Is there any objection?

20 MR. CARR: No, Your Honor.

21 THE COURT: All right. 1-23 is admitted.

22 (Government Exhibit 1-23 admitted.)

23 BY MR. DOUGLAS:

24 Q. Could you read the subject of that e-mail?

25 A. Manchin.

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1 Q. And then read the body of it please.

2 A. You will be receiving a one thousand dollar net bonus by
3 direct deposit in the next few days. Please delete this
4 e-mail.

5 Q. Could you explain to the jury why you were telling the
6 officers to please delete this e-mail?

7 A. One of the directives I had from Mr. Laurita was that
8 this program shouldn't be discussed with anyone outside of
9 the group of officers who were participating so when I sent
10 out the e-mail to the officers, especially two of them
11 worked at mine sites whose offices were very busy. There
12 were people in there, salesmen, other employees were through
13 their offices all the time, so I never knew when their
14 e-mail would be left open and inadvertently someone else
15 would see it or if they would print something and someone
16 would pick it up out of the printer, so I asked them to
17 delete the e-mails to insure that no one would see them.

18 Q. I'd like to ask you to take a look at Exhibit 1-29.
19 What is 1-29?

20 A. It is an e-mail from me to the Mepco officers.

21 Q. Is this an e-mail you were sending within the scope of
22 your duties as they were given to you by the defendant in
23 this program?

24 A. Yes.

25 MR. DOUGLAS: Move to admit 1-29.

Hughes - Direct

1 THE COURT: Is there any objection?

2 MR. CARR: No, Your Honor.

3 THE COURT: Court admits 1-29.

4 (Government Exhibit 1-29 admitted.)

5 BY MR. DOUGLAS:

6 Q. Could you read the subject of this e-mail as well as the
7 body?

8 A. The subject says delete this e-mail. The body says,
9 I'll reimburse you in the next couple days.

10 Q. Why did you ask the officers to delete this e-mail?

11 A. For the same reason I had said previously. I didn't
12 anyone else inadvertently reading it.

13 Q. Other than when you're speaking about the reimbursements
14 for this campaign program, did you ever ask the officers to
15 delete other e-mails?

16 A. Not that I can ever remember.

17 Q. Now at the time that this program was being started was
18 there some oversight over the finances of Mepco?

19 A. Yes, there was.

20 Q. And who was overseeing the finances of Mepco?

21 A. The Longview group and the owners--the owners of
22 Longview required us to complete a cash flow statement
23 weekly to report all of our cash outflow.

24 Q. And to which entities would those cash flow forecasts be
25 submitted?

Hughes - Direct

1 A. There were probably twenty people on the list that
2 received it but it was officers of Longview as well as
3 members of the First Reserve Group who was the capital
4 contributors to the Longview Power Plant.

5 Q. So did it include General Power, the parent company?

6 A. Yes, GenPower officers received it as well.

7 Q. And then you mentioned First Reserve, a capital firm.

8 Is that a firm that was providing capital for the Longview
9 Power Plant?

10 A. Yes.

11 Q. And what type of information would be in these
12 forecasts?

13 A. It was a very complex report but it detailed the
14 expected incoming cash and outgoing cash for the company for
15 the next thirteen weeks.

16 Q. Did the outgoing cash category include compensation of
17 employees?

18 A. It did.

19 Q. Was that compensation broken down between salary and
20 bonuses?

21 A. No.

22 Q. Did you have any knowledge of the defendant seeking any
23 type of approval from General Power to use company money to
24 fund campaign donations?

25 A. I have--no. I have no knowledge of that.

Hughes - Direct

1 Q. Do you have any knowledge of the defendant informing
2 First Reserve about funding the campaign donations?

3 A. I have no knowledge of that either.

4 Q. During this time frame was there also an auditing firm
5 that would conduct audits of Mepco's finances?

6 A. Yes.

7 Q. What was the name of that firm?

8 A. Ernst and Young.

9 Q. And how often would that company conduct audits?

10 A. Annually.

11 Q. And what type of information would be provided to them
12 for their audits?

13 A. They had free reign of every piece of paper in the
14 office so they looked at everything; everything coming in,
15 going out, payroll, taxes, everything.

16 Q. Have you seen some of the reports they've prepared?

17 A. I have seen them, but I don't believe I've ever read
18 them.

19 Q. All right. Do you know whether Ernst and Young had
20 reviewed compensation of employees as part of their audits?

21 A. Yes, they would review.

22 Q. Do you know whether the compensation records they were
23 provided had a breakdown between salary and bonuses?

24 A. The payroll system would have separated that out so,
25 yes, they would have known that.

Hughes - Direct

1 Q. Okay. So this is the time to talk about bonuses. Would
2 there other types of bonuses that executives received?

3 A. Yes.

4 Q. What other type of bonus was there?

5 A. The executive received a production bonus every month.

6 Q. What does that mean?

7 A. Based on the number of tons the company sold in a month,
8 there was a computation applied to that tonnage that would
9 give each officer a bonus.

10 Q. And do you know what that was--what those production
11 bonuses were entered into the payroll system as?

12 A. Just bonuses.

13 Q. And do you know what the payments for the political
14 contributions were entered into the payroll system as?

15 A. Bonuses.

16 Q. So was there any distinction in the payroll records
17 between the two types of bonuses?

18 A. No.

19 Q. Were you involved at all with the Ernst & Young audits?

20 A. Yes.

21 Q. Did Ernst & Young ever ask you about any inflation in
22 bonuses?

23 A. No.

24 Q. Did you ever inform Ernst & Young about the additional
25 bonuses now being made?

Hughes - Direct

1 A. No.

2 Q. Why not?

3 A. They didn't ask. They just reviewed what was there and
4 never asked any questions about it.

5 Q. Do you have any knowledge of the defendant informing
6 Ernst & Young about the additional bonuses?

7 A. I have no knowledge of that.

8 Q. Now you mentioned a minute ago that another rule was to
9 always ask, not tell when you're communicating with the
10 executives. At any point in the program did any executive
11 refuse to make a contribution that you were asking them on
12 the defendant's behalf to make?

13 A. Not that I can remember.

14 Q. I want to show you now or as you now to look at what
15 should be the next exhibit, which is 1-22. What is Exhibit
16 1-22?

17 A. It is an e-mail from me to the officers of Mepco.

18 Q. Were you sending this e-mail within your
19 responsibilities as given to you by the defendant in this
20 contribution program?

21 A. Yes.

22 MR. DOUGLAS: We would ask to admit 1-22.

23 THE COURT: Any objection?

24 MR. CARR: No, Your Honor.

25 THE COURT: All right. 1-22 is admitted.

Hughes - Direct

1 (Government Exhibit 1-22 admitted.)

2 BY MR. DOUGLAS:

3 Q. Could you please note the subject of this e-mail?

4 A. It says Manchin 001--oh, I'm sorry. Manchin.

5 Q. And could you read the second sentence of the body of
6 the e-mail starting with should?

7 A. Starting at the beginning?

8 Q. Yes, the sentence starting with should and the second
9 sentence.

10 A. Oh, I'm sorry. Should you wish to contribute, and I'm
11 sure all of you do, one thousand dollars is the suggested
12 donation. There are two methods to contribute. One, write
13 a check payable to Manchin for West Virginia or two,
14 complete the attached credit card authorization form. I
15 have already noted the one thousand dollar donation button
16 on the credit card authorization form. Only one one
17 thousand dollar donation is requested, not from wives, only
18 from you.

19 Q. That's fine. Thank you. I want to ask you specifically
20 about, in that second sentence where you used the term
21 suggested donation. Why did you use the term suggested
22 donation?

23 A. It was just my way of asking them to make the donation
24 as opposed to telling them they had to make it.

25 Q. Where did the one thousand dollars come from, the

Hughes - Direct

1 amount?

2 A. Mr. Laurita directed the one thousand dollar donation.

3 Q. Did anyone respond to you saying, no, I am not going to
4 make the donation?

5 A. No.

6 Q. And if you also look at the sentence that says only one
7 thousand dollar donation is requested. Why did you use the
8 term requested?

9 A. Because I was asking them for the donation.

10 Q. Do you recall anyone responding to you saying I'm not
11 going to make it in this amount?

12 A. No.

13 Q. So that meeting is held and then you have that separate
14 meeting with the defendant, how are you feeling about this
15 proposal, this idea?

16 MR. CARR: Objection. Relevance.

17 THE COURT: Sustained.

18 BY MR. DOUGLAS:

19 Q. Did you find that your contributions were voluntary?

20 MR. CARR: Objection. Relevance.

21 THE COURT: Sustained.

22 BY MR. DOUGLAS:

23 Q. You mentioned having certain roles within this program
24 and you mentioned communication to the group. How would you
25 receive the instructions from the defendant?

Hughes - Direct

1 A. It varied. Sometimes I would receive an e-mail
2 instructing. Sometimes he would just tell me. Sometimes he
3 would leave a note on my desk with instructions.

4 Q. And what types of things were in the instructions?

5 A. Just the candidates, the amount and whether or not it
6 was officers only or their wives as well.

7 Q. Can you recall which candidates or some of the
8 candidates that received the contributions under the
9 program?

10 A. I can remember some of the federal candidates. Manchin
11 and Capito and McKinley. There were some state and locals,
12 but I don't remember a lot of those.

13 Q. Okay. So once you received the instructions from the
14 defendant, what did you do next?

15 A. I would type up a note and pass that along to all of the
16 officers through the inter-company mail.

17 Q. Were some of the officers in the same building as you?

18 A. Yes.

19 Q. Were some offices at mine sites?

20 A. Yes.

21 Q. At some point did you start to use e-mail to communicate
22 with the group?

23 A. At some point I believe that we did.

24 Q. I want you to look now please at 1-69. What is 1-69?

25 A. It is an e-mail from me to Kevin O'Dell.

Hughes - Direct

1 Q. Were you sending this e-mail within the scope of your
2 responsibilities in this program?

3 A. Yes.

4 MR. DOUGLAS: Move to admit 1-69.

5 THE COURT: Is there any objection?

6 MR. CARR: No, Your Honor.

7 THE COURT: US Exhibit 1-69 is admitted.

8 (Government Exhibit 1-69 admitted.)

9 BY MR. DOUGLAS:

10 Q. To whom were you sending this e-mail?

11 A. Kevin O'Dell.

12 Q. Was he one of the other executives?

13 A. He is.

14 Q. And that amount that you're discussing there, what was
15 that amount of money for?

16 A. It was for the political contributions.

17 Q. Could you read what you said about that amount of money?

18 A. You have seven thousand fifty-six dollars in your
19 account that is not yours. Save for future contributions.

20 Q. Could you please take a look at 1-86? What is 1-86?

21 A. It is a series of e-mails between me and Rick Usery and
22 Suzanne Likins.

23 Q. And were you making these communications pursuant to
24 your responsibilities in the program?

25 A. Yes.

Hughes - Direct

1 MR. DOUGLAS: Move to admit 1-86.

2 THE COURT: Objection?

3 MR. CARR: No, Your Honor.

4 THE COURT: Government Exhibit 1-86 is admitted.

5 (Government Exhibit 1-86 admitted.)

6 BY MR. DOUGLAS:

7 Q. If we could just enlarge the top part. So to whom are
8 you sending this e-mail at the top?

9 A. To Rick Usery.

10 Q. And who's that?

11 A. He was one of the executives.

12 Q. And what are you telling him?

13 A. I am relatively certain about the check but not sure
14 about the attendance. I'll find out.

15 Q. And what did you mean you were relatively certain about
16 the check?

17 A. That I was relatively certainly we were supposed to make
18 a contribution but I didn't know if we were supposed to
19 attend.

20 Q. And when you say I'll find out, is there a certain
21 person that you were going to find out from?

22 A. I would be asking Mr. Laurita.

23 Q. Could you take a look at 1-96 please? What is 1-96?

24 A. It is an e-mail from me to Mr. Laurita.

25 Q. And does it consist of communication between the two of

Hughes - Direct

1 you about the program?

2 A. Yes.

3 MR. DOUGLAS: Move to admit 1-96.

4 THE COURT: Any objection?

5 MR. CARR: No, Your Honor.

6 THE COURT: Court admits US Exhibit 1-96.

7 (Government Exhibit 1-96 admitted.)

8 BY MR. DOUGLAS:

9 Q. Could you read the e-mail from the bottom up?

10 A. Mr. Laurita is asking me did I say anything to you
11 concerning funding this event and I answered him by saying a
12 thousand dollars per officer.

13 Q. Now in addition to communicating with the group, did you
14 have any other responsibilities within the program?

15 A. Not that I can recall.

16 Q. Let me ask it this way. When the executives had, let's
17 say, written a check, did they know what to do with it? How
18 did they know what to do with it?

19 MR. CARR: Objection. Calls for speculation.

20 THE COURT: If it's based on her knowledge, she may
21 answer. Otherwise sustained. Rephrase the question.

22 MR. DOUGLAS: Yes, Your Honor.

23 BY MR. DOUGLAS:

24 Q. Did you ever tell the executives what they were supposed
25 to do with checks once they had written it?

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1 A. Usually I told them to give the checks back to me.

2 Q. Okay. And what did you do with the checks when you
3 collected them from the executives?

4 A. Once I collected them Mr. Laurita would instruct me what
5 to do with them next.

6 Q. And what did that include?

7 A. It varied. Sometimes he would take them. Sometimes one
8 of the candidates would come and pick them up or sometimes
9 one or more officers would take the checks to a fundraiser.

10 Q. Did you ever know what the defendant was doing on those
11 occasions where he would pick them up from you?

12 A. No.

13 Q. And when--on those occasions when the defendant would
14 pick them up from you, was it check by check or was it
15 checks that were together?

16 A. They were together in a bundle.

17 Q. Okay. Did you keep any record as it concerned the
18 program?

19 A. In the beginning I did not, but as time went on I did
20 start to keep records so that I could accurately track the
21 amounts of the donations to determine when the officers need
22 to be paid back and how much.

23 Q. So how did you obtain the information that you were
24 putting into these records?

25 A. From my own personal records and I asked for

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1 corroboration from the officers so I could double check that
2 the record I had agreed with what they--what they had in
3 their personal files.

4 Q. Did you ever learn whether the defendant was himself
5 keeping any type of record of the executive contributions?

6 A. I don't know if he did.

7 Q. Did the defendant ever tell you anything about campaigns
8 knowing that he had made certain contributions or that
9 certain executives had made certain contributions?

10 A. I can think of a couple of occasions where he would know
11 that we had made a contribution like for the primary and it
12 was time to make a contribution for the general election but
13 not specific things.

14 Q. You didn't know where he was getting that information?

15 A. No, I can't recall where he would have gotten that.

16 Q. Okay. Now were these advancements or reimbursement
17 payments, were taxes accounted for?

18 A. Yes.

19 Q. How so?

20 A. Whatever--whatever the reimbursement amount was, was the
21 net of the pay check and so I grossed up--I grossed up from
22 there so that taxes would be taken out and the net of the
23 check would be what the reimbursement equaled.

24 Q. And when you had calculated the amount that you were
25 seeking, who would you communicate that to?

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1 A. Rodney Bolyard.

2 Q. And who was that?

3 A. He was a comptroller and was the person who did the
4 Mepco executives payroll.

5 Q. Who would actually enter it into the payroll system as a
6 bonus?

7 A. Rodney.

8 Q. As a practical manner, how did that show up, let's say,
9 on your bank statement, one of these payments, one of these
10 deposits?

11 A. It would just show up as another credit on my bank
12 statement.

13 Q. Was it a check or was it direct deposit?

14 A. It was direct deposited.

15 Q. And would it be included with that other type of bonus
16 you were talking about earlier, the performance bonus or
17 would it be separate from it?

18 A. I believe they were separate.

19 Q. Okay. Did the payments take the form of both
20 advancements and back end reimbursements during this
21 program?

22 A. Yes.

23 Q. When the payment was an advancement, where would you get
24 the amount that needed to be advanced?

25 A. Mr. Laurita would tell me.

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1 Q. When the payment was a reimbursement, how did you
2 calculate that amount?

3 A. I would just accumulate the contributions that had been
4 made and compare that to the advance that had been
5 previously made to see how it netted out and when it ended
6 up that the contributions exceeded what the advance payment
7 was, then I would just initiate a reimbursement.

8 Q. Now I would like you to take a look at Exhibits 50, 51
9 and 52 please. What generally are these exhibits?

10 A. 50 and 51 are spread sheets created by me indicating a
11 reimbursement that was made--a calculation for the
12 reimbursements made to officers.

13 Q. And what is 52?

14 A. 52 is tracking the contributions as well as the
15 reimbursements during a specific period of time. This must
16 have been 2010 through 12.

17 Q. And were you keeping these records to fulfill your
18 duties as given to you by the defendant in this program?

19 A. Yes.

20 Q. Were you keeping these regularly once you started
21 keeping them? I know you said you didn't start early on but
22 once you started were you keeping them regularly?

23 A. Yes, I tried to keep up with them as best that I could.

24 MR. DOUGLAS: We move to admit 50, 51 and 52?

25 THE COURT: Is there any objection?

Hughes - Direct

1 MR. CARR: No, Your Honor.

2 THE COURT: All right. 50, 51 and 52?

3 MR. DOUGLAS: Yes, Your Honor.

4 THE COURT: All right. All three are admitted.

5 (Government Exhibit 50, 51 and 52 admitted.)

6 BY MR. DOUGLAS:

7 Q. Let's take a look at 50 please.

8 A. Okay.

9 THE COURT: Is this all 2010 through 12? Is that
10 what the testimony was?

11 MR. DOUGLAS: Yes, Your Honor, so far I think
12 that's what it's been.

13 THE COURT: Thank you.

14 BY MR. DOUGLAS:

15 Q. Now if you look at the far left column, those names,
16 whose names are those in general?

17 A. The officers of Mepco.

18 Q. Okay. And if you look over on the right, you have two
19 columns, one called net goal and net actual. What does that
20 mean?

21 A. The net goal was the amount of the contribution
22 reimbursement that I was targeting and the actual is just
23 what the payroll system ended up calculating as the net.

24 Q. And then on the far left you have a gross column?

25 A. Yes.

Hughes - Direct

1 Q. Okay. Is this how you were accounting for the taxes as
2 you were describing?

3 A. Yes.

4 Q. And if we just pop Exhibit 51 up quickly please. Is
5 this just another example of another date of one of those
6 spread sheets?

7 A. Yes it is.

8 Q. And are these the spreadsheets you're actually sending
9 to Rodney Bolyard to cause the deposits?

10 A. I believe I did send these to Rodney.

11 Q. Okay. Now if we can take a look at Exhibit 52 please.
12 And if first we could just enlarge sort of the top half of
13 the page. Could you explain to the jury what type of
14 information you're keeping in this spreadsheet?

15 A. On the left is a list of all the candidates that were
16 supported and in the middle are the cumulative totals and
17 behind that are all the individual officers' contributions
18 but this is the total page that were contributed to each of
19 those candidates and whether it was the primary or general
20 election and whether it was employees only. An SP would
21 designate that the spouse contributed also.

22 Q. Okay. And then if we could enlarge the bottom half of
23 that page please. And here what does the bottom half of
24 this page depict?

25 A. If you see total from above and total from feeder pages,

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1 it equals a total of all the contributions and then below
2 that in the negative--the negative things are the
3 reimbursement totals that were paid to the officers.

4 Q. And is that just for the year 2010?

5 A. Yes.

6 Q. Is that what those dates are there? What are those
7 dates?

8 A. The dates on the left would've been the dates of the
9 reimbursements or the advance, whichever the case may be.

10 Q. And what do you mean there at the very bottom of excess
11 reimbursement?

12 A. That the net--the nets probably didn't calculate--the
13 net pay didn't calculate specifically to the penny and that
14 was the excess.

15 Q. Okay. And is that divided among eight executives?

16 A. I'd have to look at each one. It probably varied for
17 each one but, yes, generally.

18 Q. Let's take a look at the second page of Exhibit 52
19 please. And if we could just do the top half please. So
20 here there's the name Karen. Is that you?

21 A. Yes.

22 Q. So is there then a separate sheet for each executive?

23 A. Yes, there was.

24 Q. Okay. And so the same columns that you've already
25 explained?

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1 A. Correct.

2 Q. And if we could look at the bottom half of that page
3 please. And so that total there of twenty-four thousand
4 three hundred and fifty dollars, is that just for you?

5 A. Yes.

6 Q. Contributions you have made?

7 A. And my husband, yes.

8 Q. And your husband. I'm sorry. And those are
9 the reimbursements that you received at the bottom?

10 A. That's correct.

11 Q. Okay. We are not going to look at all of them but did
12 you then keep a similar sheet for each of the executives--

13 A. I did.

14 Q. --as you were going along?

15 A. I did.

16 Q. Okay. I do want to jump to page twelve please and if we
17 could enlarge the top half please. What record are you
18 keeping here?

19 A. This is very similar to the page we just looked at for
20 2010 but it was for 2011 and 12, had each officer on the
21 left and the contributions--contribution totals they had
22 made.

23 Q. For what time period?

24 A. 2011 and 12.

25 Q. Okay. And if we could enlarge the bottom half of page

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1 twelve please. What record are you keeping here?

2 A. That is also for 2011 and 12 but it's a list of all of
3 the candidates and the amount that each one of them was
4 supported and which election, the far right column, if I
5 knew I put it in there.

6 Q. And is that for the same time period you've already
7 indicated?

8 A. Yes.

9 Q. Okay. And then if we could finally look at page
10 thirteen please and enlarge the top half. What record are
11 you keeping on this page?

12 A. This is a record of the candidates that I
13 supported--there's not a date on here so for whatever period
14 of time that this is covering.

15 Q. Okay. And finally, if we look at the bottom half of
16 page thirteen. It may give you an understanding for the
17 time period. Do you see the dates on there?

18 A. Yes. 2011 and 12. This--these would have been the
19 reimbursements that I received for that period of time.

20 Q. Did you also keep spreadsheets for the performance
21 bonuses?

22 A. I did.

23 Q. Could you look at Exhibit 53 please. What is Exhibit
24 53?

25 A. It is an example of a spreadsheet that I kept for the

Hughes - Direct

1 performance--the production bonuses.

2 Q. And is this an example of a record that you were keeping
3 regularly?

4 A. I did it monthly, yes.

5 Q. And were you the one that was calculating the
6 information that was put in there?

7 A. Yes.

8 MR. DOUGLAS: Okay. We move to admit Government
9 Exhibit 53.

10 THE COURT: Any objection?

11 MR. CARR: No, Your Honor.

12 THE COURT: Government Exhibit 53 is admitted.

13 (Government Exhibit Number 53 admitted.)

14 BY MR. DOUGLAS:

15 Q. If we could just enlarge the top part there please. And
16 we're not trying to get technical here but if you could just
17 generally explain how you're calculating this?

18 A. On the far left column are the months of the year and
19 the tonnage is calculated for the sales that we had in that
20 particular--the sales tons we had in that particular month
21 and the rate by which the bonus was calculated and then the
22 bonus amount and the date we paid.

23 Q. So are these bonuses deposited separately from the other
24 bonuses we've been discussing?

25 A. Yes.

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1 Q. Thank you. Finally, did you pro--did you prepare any
2 spreadsheets for the defendant during your working for him?

3 A. Yes.

4 Q. Could you take a look at Exhibit 1-66 please. What is
5 Exhibit 1-66?

6 A. It as an e-mail from me to Mr. Laurita.

7 Q. Does it include an attachment to the e-mail?

8 A. It does.

9 Q. What is the attachment to the e-mail generally?

10 A. It's a spreadsheet with the officers and their salaries.

11 Q. Did you create this spreadsheet at the defendant's
12 direction?

13 A. Yes.

14 MR. DOUGLAS: We move to admit 1-66.

15 THE COURT: Any objection?

16 MR. CARR: No, Your Honor.

17 THE COURT: Government Exhibit 1-66 is admitted.

18 (Government Exhibit 1-66 admitted.)

19 BY MR. DOUGLAS:

20 Q. If we could bring up page two, the attachment to the
21 e-mail, please. Do you see the column in both of those
22 tables called fundraising compensation?

23 A. Yes.

24 Q. What is that?

25 A. It would be the amount of money that was paid to each

Hughes - Direct

1 officer to reimburse them for their campaign contributions
2 in the specific years, 2010 and 11.

3 Q. Did you find you made money by receiving these deposits,
4 that it was actually compensation?

5 A. I never considered it as compensation.

6 MR. DOUGLAS: Objection. Relevance.

7 THE COURT: Sustained.

8 MR. DOUGLAS: Move to strike.

9 THE COURT: Ladies and Gentlemen, that was
10 non-responsive to the question and the Court strikes the
11 answer. You should disregard the answer.

12 MR. DOUGLAS: The Court's indulgence.

13 (Pause)

14 BY MR. DOUGLAS:

15 Q. Was there ever a time that you received one of these
16 advancements and you spent it on whatever you wanted to and
17 then didn't make the contributions?

18 A. No.

19 Q. Why not?

20 A. I was under the impression that these funds were seg--to
21 be segregated for the campaign contributions.

22 Q. Where did you get that impression?

23 A. From Mr. Laurita.

24 Q. I would like you to take a look at Government's Exhibit
25 8. Could you tell us what generally Government Exhibit 8

Hughes - Direct

1 is?

2 A. Contributions made by my husband and I, both by check
3 and by credit card. These are my credit card statements
4 and--and some checks, yeah.

5 MR. DOUGLAS: Okay. We move to admit Government
6 Exhibit 8.

7 THE COURT: Is there any objection?

8 MR. CARR: No, Your Honor.

9 THE COURT: Government Exhibit 8 is admitted.

10 (Government Exhibit Number 8 admitted.)

11 BY MR. DOUGLAS:

12 Q. What is this on page one?

13 A. That is a check to McKinley for Congress for a campaign
14 contribution made by my husband.

15 Q. And was this check written pursuant to the program?

16 A. Yes.

17 Q. In fact were all of these contributions in these records
18 made pursuant to the program?

19 A. Yes.

20 Q. I would like to take a look at page six please. If
21 you'll see at the bottom left corner you can tell the pages.
22 All right. What is on page six?

23 A. That is a check from me to Capito for Congress for five
24 hundred dollars.

25 Q. Why did you write this check?

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1 A. It was a campaign contribution which was part of this
2 program.

3 Q. How did you know you were supposed to write it?

4 A. Mr. Laurita asked us to write those.

5 Q. And finally on this exhibit if we could go to page
6 twelve. If you could scroll that down please and enlarge
7 the bottom half. If I can draw your attention to the
8 transaction on 4/12.

9 A. Yes.

10 Q. What is that transaction for?

11 A. It's a five thousand dollar contribution to Manchin for
12 West Virginia.

13 Q. Why did you make that credit card transaction?

14 A. It was part of the contribution program.

15 Q. Now if you could take a look at the last exhibit for
16 you, which is Exhibit 9? What is Exhibit 9?

17 A. It's a series of my personal bank statements.

18 Q. And do these bank statements relate to the advancements
19 or reimbursements in the program?

20 A. I can see on the first page there is an advance.

21 MR. DOUGLAS: Okay. We'll move to admit Government
22 Exhibit 9.

23 THE COURT: Any objection?

24 MR. CARR: No, Your Honor.

25 THE COURT: Government Exhibit 9 is admitted.

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1 (Government Exhibit Number 9 admitted.)

2 BY MR. DOUGLAS:

3 Q. If you could bring up that first page please and enlarge
4 the bottom half. Can you identify the advancement, if
5 there's an advancement here?

6 A. Well based on the day, from those previous e-mails that
7 we looked at, on March 9th the eleven thousand seven hundred
8 and one dollar credit would have been an advance.

9 Q. Okay. And just to help us distinguish between other
10 compensation or other payments you're receiving from Mepco,
11 what is that one at the top on March 5th?

12 A. On March 5th that credit--I'm not sure if that would
13 have been the production bonus or if it's a payroll--just a
14 regular payroll salary.

15 Q. Okay. At some point did you stop making campaign
16 contributions?

17 A. Yes.

18 Q. Why?

19 A. Mr. Laurita just stopped asking us to make them.

20 Q. Since you left Mepco have you made any campaign
21 contributions?

22 MR. CARR: Objection. Relevance.

23 THE COURT: Sustained.

24 BY MR. DOUGLAS:

25 Q. During the time frame of 2010 to 2013, if your name is

Hughes - Cross

1 on an FEC report for campaign contributions, would that have
2 been related to the program?

3 MR. CARR: Objection. Foundation. Calls for
4 speculation.

5 THE COURT: Sustained. Inadequate foundation.

6 BY MR. DOUGLAS:

7 Q. Did you make any other campaign contributions other than
8 pursuant to this program during 2010 to 2013?

9 A. No.

10 Q. All right. In the absence of the defendant asking you
11 to make the contributions, would you have made the
12 contributions?

13 A. No.

14 MR. DOUGLAS: Nothing further.

15 THE COURT: Anything further, Mr. Douglas?

16 MR. DOUGLAS: No. Nothing further.

17 THE COURT: Passing the witness?

18 MR. DOUGLAS: Yes, Your Honor.

19 THE COURT: All right. Cross-examination?

20 MR. CARR: May I have a moment please?

21 THE COURT: Yes.

22 (Pause)

23 CROSS EXAMINATION

24 BY MR. CARR:

25 Q. Ms. Hughes, I would first like to talk to you about your

Hughes - Cross

1 testimony regarding the two e-mails that you were shown in
2 which you instructed or asked individuals to delete the
3 e-mail. Are you aware of any other e-mails you sent other
4 than those two in which you directed people to delete the
5 e-mail?

6 A. I don't remember if I sent more.

7 Q. Do you recall the exhibit you were shown which dealt
8 with the thousand dollar deposit?

9 A. A thousand dollar deposit?

10 MR. CARR: Excuse me just a second. If I may
11 retrieve Government Exhibit 1-23?

12 THE COURT: Did you retrieve them from the witness?
13 Okay. Mr. Douglas, in the future, when you're finished with
14 the exhibits, you need to give them back to the Clerk so
15 that the next person may use them.

16 MR. DOUGLAS: Yes, Your Honor.

17 THE COURT: Ms. Hughes, do me a favor and just pull
18 up all those exhibits and hand them to Mr. Carr. Thank you.

19 Mr. Carr, if you're going to go through a number of
20 those, just hold onto them and give them back to the Clerk
21 at the end of your examination.

22 MR. CARR: Yes, Your Honor. May I approach, Your
23 Honor?

24 THE COURT: You may.

25 BY MR. CARR:

Hughes - Cross

1 Q. I'm going to give you back Government Exhibit 1-23.

2 A. Okay.

3 Q. And the jury doesn't have that up. It's a--if I can
4 just summarize, is that the very short e-mail that the
5 subject line was Manchin and you say you will be receiving a
6 one thousand net bonus by direct deposit in the next few
7 days?

8 A. Yes.

9 Q. Please delete this e-mail is the end of it. That
10 deposit never happened did it?

11 A. I don't know.

12 Q. If that deposit happened, would you agree with me that
13 it should be on Government Exhibit 52, the spreadsheet that
14 you were keeping?

15 A. It should be accounted for somewhere in the
16 calculations, yes.

17 Q. And if I can then clarify, for instance on page two--

18 MR. CARR: May I approach, Your Honor.

19 THE COURT: You may. You don't have to ask once
20 you've started.

21 MR. CARR: Thank you, Your Honor.

22 BY MR. CARR:

23 Q. On Government Exhibit 52, am I correct that you have for
24 2010, and this is just using you as an example, three
25 deposits in 2010?

Hughes - Cross

1 A. Okay.

2 Q. Is that--is that what that represents?

3 A. That is what that represents.

4 Q. And you were attempting to put on this sheet any deposit
5 relating to these contributions and keep track of them, is
6 that right?

7 A. That would have been my intention.

8 Q. So this should be all of them?

9 A. I would think so.

10 Q. And I realize the jury doesn't have this back up but
11 that was in March of 2010, October of 2010 and then December
12 30th, 2010, the end of the year?

13 A. Okay.

14 Q. Is that--

15 A. That's correct.

16 THE COURT: Mr. Carr, we can put those--you can put
17 those on the ELMO if you want to and use them that way.
18 It's up to you.

19 MR. CARR: Thank you, Your Honor. It will be
20 brief.

21 THE COURT: Okay.

22 BY MR. CARR:

23 Q. And again, in reference to Government Exhibit 52, this
24 is again for you, is that correct?

25 A. Yes.

Hughes - Cross

1 Q. And this is page--there aren't page numbers on this
2 copy. So for the time period of 11 and 12, it's March 11th,
3 August 12th of '11--I apologize. March 14th of '11, October
4 12th of '11 and then August 27th of '12.

5 A. Yes, that's what's on there.

6 Q. And these would have been the deposition into your
7 account, is that correct?

8 A. They should be.

9 Q. And so if that thousand dollar deposit that you
10 referenced is not on the spreadsheet or not in your bank
11 records, that would indicate that it was never made, is that
12 right?

13 A. I can't answer that specifically without reviewing all
14 the records to see if I accounted for it in another way but
15 generally I would probably agree with you.

16 Q. But then that thousand dollar deposit, and actually all
17 deposits, especially taking your case for example, were
18 direct deposited into your bank account?

19 A. They would have been--yes.

20 MR. CARR: And I retrieved the exhibits from the
21 witness.

22 THE COURT: You may. Oh, you did.

23 MR. CARR: I'm just noting for the record, Your
24 Honor.

25 THE COURT: Okay. Thank you.

Hughes - Cross

1 BY MR. CARR:

2 Q. So you are only aware of the two e-mails that we spoke
3 about in which you asked somebody to delete something, is
4 that right?

5 A. That I can recall, yes.

6 Q. And we have the records and so they weren't deleted, is
7 that correct?

8 A. Apparently not.

9 Q. And you're not aware of any records within the office
10 regarding this program, as it's been referred to, that were
11 destroyed, either as it was happening or after?

12 A. No. I'm not aware of anything that was destroyed.

13 Q. And no one, certainly to your knowledge, instructed
14 anyone to destroy anything as it relates to this program?

15 A. No one instructed us to do that.

16 Q. Is it accurate that executive compensation in general
17 was treated confidentially amongst the executives?

18 A. Yes.

19 Q. You did not--is it correct that you did not--the
20 executives did not want their compensation to be known to
21 anyone really outside of that group?

22 A. That's true.

23 Q. It was not just limited to the second bonus, as it's
24 been referred to?

25 A. That's correct. It was just compensation in general.

Hughes - Cross

1 Q. And that was even more so the case with the executives
2 that were down at the mine sites because of the number of
3 people that were in and out of those offices?

4 A. Are you talking about compensation in general?

5 Q. Yes, compensation in general, that if there were--I
6 wanted to make that I heard you correctly that there was a
7 concern for instance that one of those executives would
8 leave e-mails up or open and other people down at the mine
9 sites could access them?

10 A. Well, that was my concern, yes. I didn't want my--it to
11 be my reason that somebody else found something out that we
12 wanted to keep confidential.

13 Q. I understand. There was a question asked of you
14 regarding the designation of these payments as bonuses. Is
15 it not accurate--put that a different way. Is it accurate
16 that the only way in the payroll system to trigger the
17 payment of the money was to call it a bonus?

18 A. Under the setup of the system, yes, that was correct.

19 Q. Am I correct that to your knowledge that is the only
20 reason why it was called a quote "bonus" in the computer
21 system?

22 A. Yes, because it would have been very involved to create
23 more--more designations and Rodney would've had to be the
24 person to do that.

25 Q. Mr. Laurita certainly at no time ever instructed you to

Hughes - Cross

1 hide the fact that these were somehow linked to political
2 contributions within the financial system?

3 A. No.

4 Q. You mentioned Ernst and Young being in the office?

5 A. Yes.

6 Q. They had access to any piece of paper that they wanted
7 in the office, is that correct?

8 A. That's correct.

9 Q. Are you aware of them ever asking what the second bonus
10 was for?

11 A. No.

12 Q. Are you aware of anyone denying what the second bonus
13 was for?

14 A. No.

15 Q. In your bank records payments from Mepco are designated,
16 generally speaking, Mepco payroll, is that correct?

17 A. That's correct.

18 Q. And that included three payments that you--three
19 categories of payment that you received during the year,
20 your base salary?

21 A. Yes.

22 Q. The tonnage bonus?

23 A. Yes.

24 Q. And the second bonus?

25 A. Correct.

Hughes - Cross

1 Q. And the designations for those deposits into your
2 account, is it your understanding that that's a matter of
3 how the bank lists those on your account?

4 A. That's correct.

5 Q. And all three of those appear identical?

6 A. That's correct.

7 Q. As we have just reviewed Government Exhibit 52, would
8 you agree with the characterization that the, in effect
9 since we're referring to it as bonus two, the payments that
10 you received under the second bonus were staggered? It was
11 not every contribution or a here's a check for a thousand
12 dollars, give me a check for a thousand dollars?

13 A. They were staggered.

14 Q. There were, in effect, according to your records, three
15 in 2010, correct?

16 A. Yes.

17 Q. Two in 2011?

18 A. Yes.

19 Q. And one in 2012?

20 A. Yes.

21 Q. Is it correct that Jim Laurita never told you that you
22 had to contribute to anyone?

23 A. He never said that. He never told us we had to.

24 Q. And he also didn't tell you that you couldn't spend the
25 money on anything else?

Hughes - Cross

1 A. Not specifically.

2 Q. Since you were not previously politically, especially
3 active, for lack of a better term, would it be correct that
4 you do not know whether it is common for companies to bring
5 contributions together or individuals in a neighborhood and
6 present those to the campaign? Do you know whether that's
7 common or not?

8 A. I have no idea.

9 MR. CARR: Retrieving Government Exhibit 52.

10 THE COURT: All right.

11 MR. CARR: Your Honor, would it--and I apologize.
12 Would it be possible to have the ELMO turned on?

13 THE COURT: All right. Yes, we can turn the ELMO
14 on. Ladies and Gentlemen, ELMO is our name for what is a
15 modern overhead projector so there will be an exhibit placed
16 on the screen or the pad and it will show up on the screen.

17 BY MR. CARR:

18 Q. Ms. Hughes, can you see that?

19 A. Yes.

20 Q. And I know I have the original but I will represent to
21 you that this is page four of Government Exhibit 52 and
22 these would be the contributions for Chris, is that correct?

23 A. Yes.

24 Q. For 2010?

25 A. Yes.

Hughes - Cross

1 Q. And according to this document, am I correct--I'm going
2 to point to it, that near the end of the list there are two
3 entries for Oliverio, correct?

4 A. Yes.

5 Q. Fourteen hundred dollars and five hundred dollars?

6 A. Yes.

7 Q. And this is the next page and this would be for Brian,
8 is that right?

9 A. Yes.

10 Q. And who is Brian?

11 A. Brian Osborn.

12 Q. And I apologize. Who is Chris?

13 A. Chris Stecher.

14 Q. Brian did not give to Oliverio, is that correct?

15 A. That's correct.

16 Q. Would you agree with me then that the jury could compare
17 donations on your spreadsheet to see if different executives
18 did or did not give to a candidate and if the amounts
19 differ?

20 A. If I recorded everything accurately, yes they could do
21 that.

22 Q. Do you have any reason to believe this document is
23 inaccurate?

24 A. No I don't.

25 Q. Are you aware of other instances in which it appears

Hughes - Cross

1 that execs gave to--some execs gave to one candidate, some
2 didn't and amounts differed or did you pay attention to
3 that?

4 A. I rarely paid attention.

5 Q. I take it that given your duties, Ms. Hughes, this was
6 not one of the primary things that you focused on, would
7 that be fair?

8 A. That's fair.

9 Q. But the numbers, for instance in the e-mails that you
10 had previously testified about, Jim did make clear to you
11 that those were only suggestions?

12 A. Yes.

13 Q. And at times, Ms. Hughes, is it fair to say, for
14 instance of October of 2010, you may have gotten a tad bit
15 behind on keeping up with the spreadsheet?

16 A. Yes.

17 Q. And would--do you recall in October of 2010 sending
18 e-mails to a number of the execs with portions of that
19 spreadsheet attached?

20 A. I do.

21 Q. And is it accurate that you said to the execs words to
22 the effect of, the yellow highlights are those donations I
23 have not received from you. If you intend to make those
24 donations, please fill in the amount and return to me?

25 A. I remember that, yes.

Hughes - Cross

1 Q. And that's part of the e-mail. The--if the execs did
2 not make the donations, you'd didn't care did you?

3 A. No.

4 Q. You would complete the spreadsheet and make the
5 calculations for the bonus?

6 A. That's correct.

7 MR. CARR: Returning Government Exhibit 52 to the
8 Court.

9 THE COURT: All right.

10 BY MR. CARR:

11 Q. I'm going to refer you to Government Exhibit 1-69 and,
12 Ms. Hughes, if you would like to see it again please tell me
13 and I'll be happy to bring it up to you. It's the one line
14 e-mail to Kevin O'Dell that says--from you, that says you
15 have, and it has a certain amount in your account that is
16 not yours. Do you recall that e-mail?

17 A. I do.

18 Q. Jim did not tell you to send that did he?

19 A. No.

20 Q. To your knowledge Jim had no idea that you sent that to
21 him?

22 A. I doubt that he knew.

23 Q. To your knowledge, Jim never demanded that an exec make
24 a campaign contribution?

25 A. He did not demand that.

Hughes - Redirect

1 MR. CARR: May I have just a moment, Your Honor?

2 THE COURT: Yes.

3 (Pause)

4 BY MR. CARR:

5 Q. Ms. Hughes, as it relates to Government Exhibit 52, and
6 that's the spreadsheet that we have been discussing and I
7 had just put on the ELMO, am I correct that you have no
8 reason to believe that at the time Mr. Laurita ever saw that
9 spreadsheet?

10 A. I don't believe he did ever see it.

11 Q. It was kept on your computer, is that correct?

12 A. That's correct.

13 MR. CARR: Nothing further at this time, Your
14 Honor.

15 THE COURT: All right. Is there any redirect?

16 MR. DOUGLAS: Briefly, Your Honor.

17 THE COURT: All right.

18 REDIRECT EXAMINATION

19 BY MR. DOUGLAS:

20 Q. Ms. Hughes, I'd like to take a look again at 1-22
21 please. If you could enlarge the top please. I'd like you
22 to pay attention first of all with regard to the date and
23 time of this e-mail. What is it?

24 A. August 13th at 8:47 in the morning.

25 Q. Okay. And I believe you already testified on direct

Hughes - Redirect

1 that this is regarding Manchin. What are you requesting in
2 this e-mail?

3 A. A thousand dollar donation from each of the officers.

4 Q. Okay. And so is that a request for a thousand dollar
5 donation to Manchin?

6 A. Yes.

7 Q. Okay. And let's take a look at 1-23 please. You just
8 testified that that previous e-mail, 1-22, was on August 13
9 at 8:47 a.m. What time is this e-mail and what date?

10 A. August 13th 8:49 a.m.

11 Q. And what are you saying there?

12 A. You will be receiving a one thousand dollar net bonus by
13 direct deposit in the next few days.

14 Q. And what's the subject?

15 A. Manchin.

16 Q. Are these two e-mails related at all?

17 A. They appear to be.

18 Q. Okay. Then let's take a look at Government Exhibit 52.
19 And how are these two e-mails related by the way? You're
20 asking for a thousand dollar donation for Manchin and you're
21 telling them they're going to get a thousand dollars
22 deposited. What's the relation?

23 A. That once the contributions are made that I would
24 reimburse them the thousand dollars.

25 Q. Okay. So let's take a look at page fifty--page two of

Hughes - Redirect

1 Exhibit 52 please. And if you could enlarge the top half
2 please. Right there. Is--you see where it says Karen, is
3 that you?

4 A. Yes, it is.

5 Q. Do you see where it says Manchin near the bottom?

6 A. I do.

7 Q. Do you see the amount?

8 A. A thousand dollars.

9 Q. Okay. And if you could look at the--blow up the bottom
10 of this page please. And do you see these reimbursements?

11 A. Yes.

12 Q. And do you see that there's a seventy-six dollar
13 difference left over?

14 A. Yes.

15 Q. So did you account for the Manchin contribution that was
16 discussed in those e-mails?

17 A. I did account for the contribution.

18 Q. Okay. So just cause it says you will be receiving a
19 thousand dollar bonus by direct deposit in the next few days
20 and it doesn't happen in the next few days, does that mean
21 that that contribution wasn't reimbursed?

22 MR. CARR: Objection, Your Honor. Relevance.

23 MR. DOUGLAS: Withdrawn.

24 THE COURT: Ladies and Gentlemen, please disregard
25 the question. Anything further, Mr. Douglas?

Hughes - Redirect

1 MR. DOUGLAS: Yes, Your Honor. Not on this
2 exhibit.

3 BY MR. DOUGLAS:

4 Q. Just a few other questions. You were asked about
5 deleting e-mails. Did you ever ask officers to delete any
6 e-mails about tonnage bonuses?

7 A. No.

8 Q. You were asked on cross-examination whether the
9 defendant ever told you that you couldn't spend the money
10 you were receiving on anything else and you said not
11 specifically. Do you remember that?

12 A. Yes.

13 Q. Did he indicate it to you in any other way than
14 specifically stating it?

15 A. The spirit of the idea--

16 MR. CARR: Objection, Your Honor, calls for
17 speculation and relevance.

18 MR. DOUGLAS: We're talking about her impression of
19 her communications.

20 THE COURT: Rephrase the question.

21 BY MR. DOUGLAS:

22 Q. Did you have the communication with this defendant that
23 indicated to you that he did not want you to spend it on
24 anything else, the money?

25 A. Not specifically.

Hughes - Redirect

1 Q. What do you mean by not specifically?

2 A. Well he never said that you can't spend the money on
3 anything else but the--the understanding was that there
4 was--

5 MR. CARR: Objection, Your Honor. Calls for
6 speculation. Relevance. It's non-responsive.

7 THE COURT: The answer appears to go beyond her own
8 personal understanding so I sustain the objection.

9 BY MR. DOUGLAS:

10 A. There was a direct--

11 Q. No, you--

12 A. I'm sorry.

13 Q. What was your understanding about whether you could
14 spend it on anything else?

15 MR. CARR: Objection. Relevance.

16 THE COURT: I'll allow it. Overruled.

17 BY MR. DOUGLAS:

18 Q. You may answer.

19 A. There was a direct correlation between the amount of the
20 contributions and the amount of the reimbursements so that
21 those two were directly related and that's what the
22 reimbursements were for.

23 Q. You were asked on cross-examination about Brian Osborn
24 and a couple of Oliverio contributions in your spreadsheet
25 that weren't there. Do you recall Brian Osborn ever

Hughes - Recross

1 refusing to give a contribution to Oliverio?

2 A. No.

3 Q. Do you recall any officer ever refusing to give any of
4 the contributions?

5 A. No.

6 MR. CARR: Objection. Foundation.

7 THE COURT: Sustained.

8 BY MR. DOUGLAS:

9 Q. If you will look at 1-69 please. You were asked on
10 cross-examination about this e-mail. I want do ask you,
11 what did you mean by is not yours, this money is not yours?

12 MR. CARR: Objection. Outside the scope of cross.
13 The question was asked as to whether Mr. Laurita had
14 directed it.

15 THE COURT: Sustained.

16 MR. DOUGLAS: Nothing further, Your Honor.

17 THE COURT: All right. Thank you. Does the
18 redirect prompt recross within the limited arena of the
19 questions?

20 MR. CARR: May I have just a moment, Your Honor.

21 (Pause)

22 MR. CARR: Very briefly, Your Honor.

23 RECROSS EXAMINATION

24 BY MR. CARR:

25 Q. Ms. Hughes, and I'm holding up Government Exhibit 52, I

Hughes - Recross

1 know it's getting late in the day so I won't hand it back to
2 you but if you want to see it I'm happy to show it to you.

3 A. Okay.

4 Q. Generally speaking--please disregard. Did you list the
5 names going down each page to the campaigns in chronological
6 order of the donation being made?

7 A. Probably not.

8 Q. And you did not put any dates with these entries?

9 A. That's correct.

10 Q. And so it would be somewhat impossible after the fact
11 now to go back and determine whether a certain contribution
12 matched--a certain contribution to the campaign matched an
13 entry on your spreadsheet, is that correct?

14 A. That would be correct.

15 Q. It appeared perhaps that this spreadsheet continued to
16 get longer and that there were entries added to the bottom.
17 Would one expect that entries earlier in the year would be
18 at the top and entries later in the year would be on the
19 bottom?

20 A. I don't know necessarily that that's the case.

21 MR. CARR: I appreciate that and I understand.
22 Thank you, Your Honor.

23 THE COURT: Is there anything further for the
24 witness? Mr. Douglas?

25 MR. DOUGLAS: No, Your Honor. Thank you.

Hughes - Recross

1 THE COURT: All right. Thank you. Is the witness
2 subject to recall?

3 MR. CARR: Yes, Your Honor.

4 THE COURT: All right. So, Ms. Hughes, you're free
5 to step down and you're excused as a witness at this time
6 but you're subject to recall so you need to leave the
7 courtroom. Thank you. And you must not discuss your
8 testimony with anyone while you're subject to recall.

9 THE WITNESS: Thank you.

10 THE COURT: Is that clear?

11 THE WITNESS: Yes.

12 THE COURT: Thank you.

13 (Witness excused)

14 THE COURT: All right. Mr. Douglas, do you have a
15 short witness?

16 MR. BERNARD: Your Honor, the next witness will be
17 Kevin O'Dell. I believe he'll probably be about twenty to
18 thirty minutes in direct.

19 THE COURT: On direct. Okay. Rather than break it
20 up, it's four-thirty. This jury has been here a very long
21 time today. Unless there's an objection from counsel I
22 think we should conclude for today. I think also we have a
23 juror who probably needs to let an employer know that she's
24 going to be coming at five-thirty after today.

25 MR. BERNARD: Your Honor, could I approach for a

1 second. With regard to this witness we're going to call I
2 believe he has a flight first thing in the morning to
3 Wyoming for business purpose. Now I don't--

4 MR. DOUGLAS: That's where he lives.

5 MR. BERNARD: Yeah. And so that's the only reason
6 I'd say if we could possibly get him on today even if we
7 need--

8 THE COURT: We can't finish him today so
9 you--if--if we're going to interrupt him in the middle, I'm
10 going to let you go for fifteen minutes. I've got to let
11 this juror go so that she can get to her employer. He's
12 going to be back tomorrow no matter what you do. He's
13 subject to cross-examination.

14 MR. BERNARD: Your Honor, we'll just put him on
15 tomorrow. No use breaking it up then. If we're going to
16 have to bring him back and not finish him today, let's just
17 make it a continuity with this witness.

18 THE COURT: Yes. I don't think that's fair to the
19 juror who told us she has to let her employer know.

20 MR. BERNARD: I agree. I agree. Thank you, Your
21 Honor.

22 MR. CARR: Agreed, Your Honor.

23 THE COURT: All right. Thank you.

24 All right. Ladies and Gentlemen of the jury, I'm going
25 to excuse you for the evening and is there anyone who can't

1 be here to begin at eight-thirty tomorrow morning?

2 (No Response)

3 THE COURT: All right. Thank you. Now you can
4 bring whatever you want tomorrow by way of your special
5 coffee, snacks in the morning, your lunch. As I explained
6 to you earlier, that jury room is yours. We will have
7 coffee for you in the morning. I think we also have tea for
8 you and you're free to use the refrigerator and leave things
9 in there if you wish to.

10 During the adjournment tonight, before you return
11 tomorrow morning to resume at eight-thirty, do not discuss
12 this case with anyone. You're going to go home and I know
13 there will be questions but you cannot discuss the substance
14 of the case. All you can say is you have been selected as a
15 juror in a trial taking place in federal court in Clarksburg
16 and that you've been instructed not to say anything further.

17 Please recall my admonition that you're not to review
18 any independent evidence in the case, whether on your own
19 research or in the newspaper, on the radio or television,
20 however it may be displayed to you and you are limited to
21 what you hear and see in the courtroom and what
22 my--regarding the evidence and what my instructions are.

23 Should a third-party attempt to approach you to discuss
24 the case, you must walk away from them and advise that
25 you've been instructed not to discuss this case with them.

1 If they pursue you and continue to attempt to discuss the
2 case with you, please let them know you're going to be
3 reporting that to me and do so at your earliest opportunity
4 either through Debbie, Court Security or if you--if it's
5 here around the courthouse and you want to approach me
6 directly, you should let Debbie or the Court Security
7 Officer know and I can make a determination at that time how
8 to deal with it. Okay.

9 Now if--I don't know what the temperature in the
10 courtroom will be tomorrow but we're going to try to keep it
11 as comfortable as we can. You should be prepared to put on
12 or take off as the case may be as the temperature moves
13 around and I apologize for that. We have a very old HVAC
14 system. We've been advised we're going to get a new one.
15 That would be the first one since this building was built in
16 the '30s. That's pretty good, but it's not going to happen
17 during this trial. Okay.

18 So thank you very much for your attention and your
19 patience today. You've been here a long time today and we
20 appreciate the hard work that you've done.

21 At this time, you're excused to be returned--to return
22 for a start at eight-thirty tomorrow morning. Now I would
23 suggest as you leave that the back row go out first, all of
24 the back row and then the second row go out and then the two
25 alternates proceed out or--you know, because you're going to

1 have to come around the jury box and I think it's the
2 easiest way to go and I'd wait for them to be out so that
3 you're not just standing right here. Thank you. Okay.

4 Leave your notebooks face down on your chairs. They'll
5 be returned to you tomorrow morning. If they do not have
6 your juror number on them, they will have them on tomorrow
7 morning. Okay. Safe travels.

8 (Jury out at 4:32 p.m.)

9 THE COURT: Thank you. Any issues to take up
10 tonight before we adjourn?

11 MR. DOUGLAS: Your Honor, the Court had previously
12 asked us to let you know when we were going to use 404(b)
13 evidence. There was a little bit of a reference to state
14 candidates. I don't know if the Court would want to do that
15 tomorrow sometime early. We can't really pinpoint--I mean
16 some might mention state contributions. I only know that
17 Suzanne Crane, which is like the fifth witness, we might get
18 into affirmative evidence about a state candidate.

19 THE COURT: Okay. All right. And if you all have
20 agreed on a limiting instruction, otherwise I'll just give a
21 generic limiting instruction to the jury to know how they
22 should deal with that--

23 MR. DOUGLAS: I proposed--

24 THE COURT: --that evidence.

25 MR. DOUGLAS: Sorry. I proposed one that I filed--

1 THE COURT: I saw it.

2 MR. DOUGLAS: --and it wasn't objected to at the
3 pretrial.

4 THE COURT: If there's no objection--you have a
5 right--they have a right to object to it before I actually
6 use it at trial.

7 MR. CARR: Your Honor, we'll be prepared to address
8 that in the morning whether we would request the Court--I
9 know that we do not have an issue with a generic
10 instruction, but we will insure that there's--if possible,
11 Your Honor, respectfully we'll bring up first thing in the
12 morning if we have an issue with the proposed instruction.

13 THE COURT: All right. All right. I should be
14 here by eight o'clock--

15 MR. CARR: Yes, Your Honor.

16 THE COURT: --ten after, anything that you want to
17 raise before the jury comes in.

18 All right. Is there any objection from you all to
19 starting at eight-thirty throughout the week? We have an
20 alternate who's got to be at her second job at now
21 five-thirty, but she needed to be able to make those
22 arrangements today and also I think we're looking at
23 some--some snow tonight so we had, you know, a couple of
24 jurors, one who has to get to Calhoun County; one who has to
25 get over to--where's he from, Pleasants County on the river

1 and I didn't see anybody from Preston County and in that
2 regard we're pretty lucky. So--but I know we have
3 Monongalia on here as well so we'll--we'll see how the
4 weather goes for the rest of the week but if there's nothing
5 further, Court stands adjourned. See you at eight-thirty
6 tomorrow morning.

7 (Court adjourned at 4:35 p.m., 01-29-2018)

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10 CERTIFICATE

11 I, Linda L. Bachman, Official Reporter of the United
12 States District Court for the Northern District of West
13 Virginia, do hereby certify that the forgoing is a true and
14 correct transcript of the proceedings had in the above
15 styled action on January 29, 2018, as reported by me by
16 stenomask.

17 I certify that the transcript fees and format comply
18 with those prescribed by the Court and the Judicial
19 Conference of the United States.

20 Given under my hand this 15th day of February, 2018.

21
22 /s/ Linda L. Bachman

23 Linda L. Bachman, CCR, CVR-M
24 Official Reporter, United States
25 District Court for the Northern
District of West Virginia